

CANNOCK CHASE COUNCIL
COUNCIL
4 APRIL 2012
REPORT OF THE LEADER OF THE COUNCIL
RESPONSIBLE PORTFOLIO LEADER(S) – CORPORATE IMPROVEMENT
LOCALISM ACT 2011 – PAY POLICY STATEMENT
KEY DECISION – (NO)

1. Purpose of Report

The purpose of this report is to agree a Pay Policy Statement for 2012/13 as required by Sections 38 and 39 of the Localism Act 2011.

2. Recommendation(s)

2.1 That Council approves the Pay Policy Statement as required as set out in Annex 1

2.2 That Council agrees to the publication of the Pay Policy Statement on the Council's website

3. Summary (inc. brief overview of relevant background history)

3.1 Section 38 (1) of the Localism Act 2011 requires English and Welsh Local Authorities to prepare a Pay Policy Statement for 2012/13 and for each financial year thereafter. Section 39 of the Act requires the Statement to be approved by Council by the end of March each year.

3.2 The purpose of a Pay Policy Statement is to provide transparency concerning the Council's approach to setting the pay of its employees in line with Chapter 8 of the Localism Act 2011 and the provisions of the draft guidance issued under S40 (i.e. Openness and accountability in local pay) by identifying:

- A Local Authority's policy on the level and elements of remuneration for each chief officer.
- A Local Authority's policy on the remuneration of its lowest paid employees (together with a definition of "lowest paid employees").
- A Local Authority's policy on the relationship between the remuneration of its chief officers and its other officers.

- A Local Authority's policy on other specific aspects of chief officers' remuneration such as remuneration on recruitment, increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

4. Key issues and Implications

4.1 Section 38 (1) of the Localism Act 2011 requires English (and Welsh local authorities to prepare a pay policy statement for 2012/13 and for each financial year after that. The bill as initially drafted referred solely to chief officers (a term which includes both statutory and non-statutory chief officers, and their deputies); but amendments reflecting concerns over low pay and also drawing on Will Hutton's 2011 review of fair pay in the public sector introduced requirements to compare the policies on remunerating chief officers and other employees, and to set out the policy on the lowest paid.

4.2 The Act defines remuneration widely, to include not just pay but also charges, fees, allowances, benefits in kind, increases in/enhancements of pension entitlements, and termination payments.

4.3 In terms of process the Pay Policy Statement

- Must be approved formally by the full Council
- Must be approved by the end of March each year starting with 2012
- Can be amended in-year
- Must be published on the Authority's website (and in any other way the Authority chooses)
- Must be complied with when the Authority sets the terms and conditions for a Chief Officer.

4.4 The Act also requires an Authority to have regard to any statutory guidance on the subject issued or approved by the Secretary of State. Statutory recommendations have been issued on pay multiples (within a wider code of recommended practice) on data transparency (Annex 2) and a broader set of statutory guidance on the publication of pay policy statements (Annex 3). The statutory guidance emphasises that each Local Authority has the autonomy to take its own decisions on pay and pay policies.

4.5 The Act sets out that in the context of managing scarce public resources, remuneration at all levels needs to be adequate to secure and retain high quality employees dedicated to the service of the public, but at the same time needs to avoid being unnecessarily generous or otherwise excessive (and seen as such). Each Local Authority will have its own way of balancing those factors, with legitimately differing emphases reflecting differing circumstances.

4.6 As well as being required to set out certain of its policies on pay, a Local Authority is required to use the pay policy statement to set out its policies on paying charges, fees (such as for the local returning officer or joint authority duties) allowances and benefits in kind.

4.7 Although not required by the Act or statutory guidance, in order to support the need for transparency the pay policy statement should include the percentage rate at which the employers pension contributions have been set for the year in question together with the employee contribution rates.

5. Conclusions and Reason(s) for the Recommendation(s)

In producing a Pay Policy Statement Cannock Chase Council will comply with the requirements of the Localism Act 2011.

6. Other Options Considered

Production of the Pay Policy Statement is a statutory requirement so no other options have been considered.

7. Report Author Details

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SCHEDULE OF ADDITIONAL INFORMATION

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Section 1

Contribution to Council Priorities

This report does not contribute directly to corporate priorities but is required for legal compliance with the Localism Act 2011.

Section 2

Contribution to Promoting Community Engagement

The production of a Pay Policy Statement and the publication of this document will ensure that all members of the public have access to transparent information concerning the Council's pay and remuneration policies.

Section 3

Financial Implications

The approval of the Council's Pay Policy Statement does not commit any additional expenditure over and above that approved for the next financial year 2012/13.

Section 4

Legal Implications

The legal implications are discussed in the main body of this report.

Section 5

Human Resource Implications

There are no specific human resource implications.

Section 6

Section 17 (Crime Prevention)

None

Section 7

Human Rights Act Implications

None

Section 8

Data Protection Act Implications

Data on Chief Officers pay was published by the Council last year and is already in the public domain.

Section 9

Risk Management Implications

The Pay Policy Statement summarises the current approved pay policy toward the remuneration of Council employees and therefore no additional risks are identified

Section 10

Equality and Diversity Implications

Pay and conditions for employees are applied fairly and equitably under the Council's job evaluation scheme. Any differentials arising in pay between employees arise from the job evaluation scheme or from the effect of TUPE protections where applicable.

Section 11

List of Background Papers

Section 12

Report History

Council Meeting	Date

Annexes to Report

Annex 1 – Pay Policy Statement

Annex 2 – Code of Recommended Practice for Local Authorities on Data Transparency

Annex 3 – Openness and Accountability in Local Pay

CANNOCK CHASE COUNCIL
PAY POLICY STATEMENT 2012-2013

Introduction and Purpose

Under section 112 of the Local Government Act 1972, Council has the “power to appoint officers on such reasonable terms and conditions as the authority thinks fit”. This Pay Policy Statement (the ‘statement’) sets out Cannock Chase Council’s approach to pay policy in accordance with the requirements of Section 38 of the Localism Act 2011. The purpose of the statement is to provide transparency with regard to the Council’s approach to setting the pay of its employees in line with Chapter 8 of the Localism Act 2011 and the provisions of the draft guidance issued under S40 (i.e. ‘Openness and accountability in local pay’) by identifying;

- the methods by which salaries of all employees are determined;
- the detail and level of remuneration of its most senior staff i.e. ‘chief officers’, as defined by the relevant legislation;
- those responsible for ensuring the provisions set out in this statement are applied consistently throughout the Council and recommending any amendments to the full Council.

Once approved by full Council, this policy statement will come into immediate effect and will be subject to review on a minimum of an annual basis in accordance with the relevant legislation prevailing at that time.

Legislative Framework

In determining the pay and remuneration of all of its employees, the Council will comply with all relevant employment legislation. This includes:

- The Equality Act 2010
- The Part Time Employment (Prevention of Less Favourable Treatment) Regulations 2000
- The Agency Workers Regulations 2010, and where relevant
- The Transfer of Undertakings (Protection of Employment) Regulations (TUPE).

With regard to the Equal Pay requirements contained within the Equality Act, the Council ensures there is no pay discrimination within its pay structures and that all pay differentials can be objectively justified.

Pay Structure

The Authority implemented its single status agreement from 1st April 2005 covering all employees within the scope of the National Joint Council for Local Government Services (known as the “Green book”). This was approved by Council on 23rd February 2005. A single status agreement for Chief Officers within the scope of the Joint Negotiating Committee for Chief Officers of Local Authorities was approved by Council on 29th June 2005 and implemented from 1st August 2005. A salary scheme for craft employees under the scope of the Joint Negotiating Committee for Local Authority Craft and Associated

Employees (known as the “Red Book”) was approved by the Council on 26th August 2009 and implemented from 1st September 2009.

The minimum and maximum rates of pay of all employees within scope of the Single Status Agreements are based on either the national pay spine and/or locally negotiated rates of pay or national minimum wage legislation, including Apprentice rates of pay dependent on age.

The national pay spine and local pay grades are set out at **Appendix 1**. The Council remains committed to adherence with national pay bargaining in respect of the national pay spine and any annual cost of living increases negotiated in the pay spine.

The grading of job roles is determined by reference to the NJC Job Evaluation Scheme and the Hay Evaluation scheme as adopted by the Council. The exception to this is circumstances where, as part of shared service arrangements, employees have transferred to Cannock Chase Council under the TUPE regulations with protected pay and terms and conditions of employment. Those terms and conditions will remain in place until such time as there is an economic, technical or organisational reason for changing them, as is required under the TUPE legislation.

With the exception of progression through any incremental scale of any relevant grade being subject to overall satisfactory performance, the level of remuneration is not variable dependent upon the achievement of defined targets

There is in addition the provision for the acceleration of increments within any grade in order to take account of changes to duties and responsibilities or outstanding contribution.

There have been no increases in the national pay spine salary points since April 2009 being the last national pay settlement for officers within the scope of the “Green Book”

All other pay related allowances are the subject of either national or local determination having been determined from time to time in accordance with national collective bargaining machinery and/or as determined by local negotiation with local trade union representatives.

In determining its pay and grading structure and setting remuneration levels for all posts, the Council takes account of the need to ensure value for money in respect of the use of public expenditure, balanced against the need to be able to recruit and retain employees who are able to meet the requirements of providing high quality services to the community, delivered effectively and efficiently and at times at which those services are required.

New appointments will normally be made at the minimum of the relevant grade, although this can be varied where necessary to secure the best candidate and to respond to variations in regional or national pay rates. From time to time it may be necessary to take account of the external pay market in order to attract and retain employees with particular experience, skills and capacity. Where necessary, the Council will ensure the requirement for such is objectively justified by reference to clear and transparent evidence of relevant market comparators, using appropriate data sources available from within and outside the local government sector.

Local Government Pension Scheme

Subject to qualifying conditions, all employees have a right to join the Local Government Pension Scheme. The table below sets out the contribution bands which will be effective from 1 April 2012. These are based on the pay bands for 2011/12 as increased by the September 2011 CPI figure of 5.2%, with the result rounded down to the nearest £100.

Band	Whole-time equivalent pay range	Employee contribution rate (%)
1	Up to £13,500	5.5
2	£13,501 to £15,800	5.8
3	£15,801 to £20,400	5.9
4	£20,401 to £34,000	6.5
5	£34,001 to £45,500	6.8
6	£45,501 to £85,300	7.2
7	More than £85,300	7.8

The Employer contribution rates are set by Actuaries advising the Staffordshire Pension Fund and reviewed on a triennial basis in order to ensure the scheme is appropriately funded. The current rate, established in 2010 is a minimum of 20.9% for the year ending 2013. (Note; the level of employers contribution is required to be published under S7 of the Accounts and Audit Regulations)

Senior Management Remuneration

For the purposes of this statement, senior management means 'chief officers' as defined within S43 of the Localism Act. The posts falling within the statutory definition are those officers who comprise the senior management team of the Council (the Leadership Team) reporting directly to the Chief Executive. The national conditions of service, which apply to chief officers of the Council and which are incorporated into contracts of employment are those set out in either the Joint National Council for Chief Officers/Chief Executives. Details of their annual salary and other additional payments as at 1st April 2012 are set out below;

Post	Range/Fixed Salary (£) (Note 4)		Essential Car User Allowance/ Lease Car
Chief Executive (Note 1)		111338	963
Corporate Director (Note 1)		80257	963
Head of Financial Management (Note 2)	54447	61165	963
Head of Governance (Note 3)	54447	61165	963
Head of Commissioning	54447	61165	963
Head of Environmental Services	54447	61165	963
Head of Housing	54447	61165	963
Head of Policy	54447	61165	963
Head of Planning and Regeneration	54447	61165	963
Head of Environmental Health	54447	61165	963

Note 1 – Single salary pay point

–Note 2– Responsible for provision of a shared service to another local authority as the new Head of Finance from 11th April on his current salary.

Note 3 – Responsible for provision of a shared service to another local authority.

Note 4 – All officers are currently paid at the maximum salary following incremental progression apart from the Head of Governance?

General - In April 2011, Stafford Borough Council's Head of Finance transferred under TUPE to Cannock Chase Council. The job holders protected salary range is £57,551 - £64,572 plus lease car allowance of £5,147 per annum. The Head of Finance has accepted voluntary early retirement/redundancy and will leave the authority on 10 April 2012.

The pay structure for Chief Officers is determined by reference to Hay Job Evaluation, benchmarking of comparable roles and responsibilities and recruitment and retention issues. There have been no increases in Chief Officer's salaries since April 2008 for cost of living rises.

The Council does not apply any bonuses or performance related pay to its chief officers or any other employee.

Additions to Salary of Chief Officers

In addition to basic salary, as set out below are details of other elements of potential 'additional pay' which are chargeable to UK Income Tax and do not solely constitute reimbursement of expenses incurred in the normal course of work.;

- (a) Lease Car – scheme closed. Protected allowances shown in above table. This is as a direct result of TUPE transfer legislation applied following the transfer of the Head of Finance from Stafford Borough Council to Cannock Chase Council.
- (b) Where appropriate and subject to operational circumstances officers who unable to utilise their full leave entitlement payment for untaken leave is permitted. This discretionary provision applies to all Chief Officers. (Other employees have the option to buy additional annual leave).
- (c) Recognition Payments (including honoraria, acting-up payments, ex-gratia payments) – subject to approval such additional payments are permissible to recognise additional duties and responsibilities which occur over and above normal contractual obligations. The provision of such payments is available to all Council employees dependent on circumstances.
- (d) Chief Officers (apart from the Head of Finance) receive a fixed annual allowance to cover the broadband and hardware costs of accessing critical systems from home (£1350 per annum)
- (e) Returning officer fees – a range of fees are payable to the Chief Executive for his role as returning officer for local elections. The fees are applied according to rates set by Staffordshire County Council for all Local Authorities in Staffordshire. Depending on the type of election the fees range from £97.29 to £128.83 per 1000 population, plus a fee of £15.09 per ward for issue of ballot papers, Poll cards – supervisory fee of £32.46 per ward up to four wards, then £16.23 per ward thereafter and £47.05 for every uncontested ward for which an election is held for a district or parish councillor(s)

Recruitment of Chief Officers

The Council's policy and procedures with regard to recruitment/appointment of chief officers is set out in Section 32, of the Council's Constitution (<http://www.cannockchasedc.gov.uk>). When recruiting to all posts the Council will take full and proper account of its own Recruitment, and where appropriate Redeployment Policies. This policy does not exclude the possibility of recruiting former Chief Officers either from this Council or any other provided that a valid business case exists to do so. However, such occurrences are unlikely to be approved without a break in continuity of service being affected. This policy does not prevent the Council from any future use of the flexibility within the Local Government Pension Scheme to agree "flexible retirement" where a suitable business case exists. The determination of the remuneration to be offered to any newly appointed chief officer will be in accordance with the pay structure and relevant policies in place at the time of recruitment and as agreed by Council. Where the Council is unable to recruit to a post at the designated grade and/or salary, it will consider the use of temporary market forces supplements in accordance with its relevant

policies, or review grades in light of market related information. Any decision as to the remuneration of chief officer posts is to be determined by Council.

Where the Council remains unable to recruit chief officers under a contract of employment, or there is a need for interim support to provide cover for a vacant substantive chief officer post, the Council will, where necessary, consider and utilise engaging individuals under 'contracts for service'. These will be sourced through a relevant procurement process ensuring the council is able to demonstrate the maximum value for money benefits from competition in securing the relevant service.

The Council does not currently have any chief officers engaged under any such arrangements.

Payments on Termination

The Councils approach to statutory and discretionary payments on termination of employment of chief officers, prior to reaching normal retirement age, is set out within its policy statement in accordance with Regulations 5 and 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 [and if adopted] Regulations 12 and 13 of the Local Government Pension Scheme (Benefits, Membership and Contribution) Regulations 2007.

Any other payments falling outside the provisions or the relevant periods of contractual notice shall be subject to a formal decision made by the full Council or relevant elected members, committee or panel of elected members with delegated authority to approve such payments.

Publication

Upon approval by full Council, this statement will be published on the Council's Website *and* Intranet. In addition, for posts where the full time equivalent salary is at least £50,000, the Councils Annual Statement of Accounts includes a note setting out the total amount of:

- salary, fees or allowances paid to or receivable by the person in the current and previous year;
- any bonuses so paid or receivable by the person in the current and previous year; (none payable as not applicable at Cannock Chase Council)
- any sums payable by way of expenses allowance that are chargeable to UK income tax;
- any compensation for loss of employment and any other payments connected with termination;
- any benefits received that do not fall within the above

Lowest Paid Employees

The lowest paid persons employed under a contract of employment with the Council are employed on full time 37 hours equivalent salaries in accordance with the minimum spinal column point currently in use within the Council's grading structure. As at 1st April 2012, this is spinal column point 4, £12,145 per annum or approximately £6.30 per hour. The Council from time to time employs Apprentices or other such categories of workers, including casual employees who are not included within the definition of 'lowest paid employees' as they are employed under the Government's national minimum wage legislation dependent on age.

The relationship between the rate of pay for the lowest paid and chief officers is determined by the processes used for determining pay and grading structures as set out earlier in this policy statement.

The statutory guidance under the Localism Act recommends the use of pay multiples as a means of measuring the relationship between pay rates across the workforce and that of senior managers, as included within the Hutton 'Review of Fair Pay in the Public Sector' (2010). The Hutton report was asked by Government to explore the case for a fixed limit on dispersion of pay through a requirement that no public sector manager can earn more than **20** times the lowest paid person in the organisation. The report concluded that the relationship to median earnings was a more relevant measure and the Government's Code of Recommended Practice on Data Transparency recommends the publication of the ratio between highest paid salary and the mean average salary of the whole of the authority's workforce.

The current pay levels within the Council define the multiple between the lowest paid (full time equivalent) employee (Spinal Column Point 4, £12,145) and the Chief Executive (£111,338) as **1: 9.2** (rounded up), and between the lowest paid employee (SCP 4) and average chief officer (including Corporate Director, excluding Chief Executive position, £63,255) as **1: 5.2** (rounded up)

The multiple between the median full time equivalent earnings (£19,126) and the Chief Executive is **1: 5.8** (rounded down) and; between the median full time equivalent earnings (£19,126) and average chief officer (£63,255) is **1: 3.3** (rounded down)

As part of its overall and ongoing monitoring of alignment with external pay markets, both within and outside the sector, the Council will use available benchmark information as appropriate.

Accountability and Decision Making

In accordance with the Council's Constitution, Council, and /or Cabinet are responsible for decision making in relation to the recruitment, pay, terms and conditions and severance arrangements in relation to employees of the Council. The Constitution sets out the various delegations to Heads of Service.

SCALE	SCP	SALARY AT 01/04/09	HOURLY RATE
A	4	12145	6.2951
	5	12312	6.3816
POINTS 6 to 8 ARE NO LONGER USED	6	12489	6.4734
	7	12787	6.6278
	8	13189	6.8362
B	9	13589	7.0435
	10	13874	7.1913
	11	14733	7.6365
	12	15039	7.7951
	13	15444	8.0050
C	13	15444	8.0050
	14	15725	8.1507
	15	16054	8.3212
	16	16440	8.5213
	17	16830	8.7234
D	17	16830	8.7234
	18	17161	8.8950
	19	17802	9.2272
	20	18453	9.5647
	21	19126	9.9135
E	21	19126	9.9135
	22	19621	10.1701
	23	20198	10.4692
	24	20858	10.8113
	25	21519	11.1539
F	24	20858	10.8113
	25	21519	11.1539
	26	22221	11.5177
	27	22958	11.8997
	28	23708	12.2885
G	27	22958	11.8997
	28	23708	12.2885
	29	24646	12.7747
	30	25472	13.2028
	31	26276	13.6195
H	32	27052	14.0218
	33	27849	14.4349
	34	28636	14.8428
	35	29236	15.1538
	36	30011	15.5555
I	37	30851	15.9909
	38	31754	16.4589
	39	32800	17.0011
	40	33661	17.4474
	41	34549	17.9077
J	40	33661	17.4474
	41	34549	17.9077
	42	35430	18.3643

Appendix 1

	43	36313	18.8220
	44	37206	19.2849
K	45	38042	19.7182
	46	38961	20.1945
	47	39855	20.6579
	48	40741	21.1171
	49	41616	21.5707



The Code of Recommended Practice for Local Authorities on Data Transparency



The Code of Recommended Practice for Local Authorities on Data Transparency

September 2011
Department for Communities and Local Government

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The Code of Recommended Practice for Local Authorities on Data Transparency

Introduction and application

1. This Code is issued by the Secretary of State for Communities and Local Government in exercise of his powers under section 2 of the Local Government, Planning and Land Act 1980 to issue a Code of Recommended Practice (The Code) as to the publication of information by local authorities about the discharge of their functions and other matters which he considers to be related.
2. The Code sets out key principles for local authorities in creating greater transparency through the publication of public data. The Code does not replace or supersede the existing legal framework for access to public sector information provided by the Freedom of Information Act 2000, Environmental Information Regulations 2004, the Re-use of Public Sector Information Regulations 2005 and INSPIRE Regulations 2009. Following this Code should help local authorities to meet these obligations to achieve the routine publication of more data to enhance accountability to the public.
3. The Code applies in England only.

Definitions

4. In this Code:
 - 'the Act' means the Local Government, Planning and Land Act 1980;
 - 'local authority' means:
 - a county council
 - a district council
 - a parish council which has gross annual income or expenditure (whichever is the higher) of at least £200,000
 - a London borough council
 - the Common Council of the City of London in its capacity as a local authority or police authority
 - the Council of the Isles of Scilly
 - a National Park authority for a National Park in England
 - the Broads Authority

- the Greater London Authority so far as it exercises its functions through the Mayor
- the London Fire and Emergency Planning Authority
- Transport for London
- the London Development Agency
- a fire and rescue authority (constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies, and a metropolitan county fire and rescue authority)
- a police authority, meaning:
 - (a) a police authority established under section 3 of the Police Act 1996
 - (b) the Metropolitan Police Authority
- a joint authority established by Part IV of the Local Government Act 1985 (fire and rescue services and transport)
- joint waste authorities, i.e. an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007
- an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009
- a combined authority established under section 103 of that Act
- waste disposal authorities, i.e. an authority established under section 10 of the Local Government Act 1985
- an Integrated Transport Authority for an integrated transport area in England

Scope

5. Greater transparency of public bodies is at the heart of enabling the public to hold politicians and public bodies to account. Where public money is involved there is a fundamental public interest in being able to see how it is being spent, to demonstrate how value for money has been achieved or to highlight inefficiency. Publication of data should also be used to open new markets for local business, the voluntary and community sectors and social enterprises to run services or manage public assets.
6. 'Public data' therefore means the objective, factual data, on which policy decisions are based and on which public services are assessed, or which is collected or generated in the course of public service delivery. This should be the basis for publication of information on the discharge of local authority functions. Public data

will generally not include personal information. Public data can only include personal information if disclosure would not contravene the Data Protection Act, and disclosure of personal information should be necessary to meet a legitimate public interest.

Principles

7. The following principles should underpin local authority decisions on the release of public data. Local authorities should respond to best practice as it develops. This requires a proactive approach to review and pursue higher standards.

DEMAND-LED

8. There are growing expectations that new technologies and publication of data should support transparency and accountability. Local authorities should not pre-determine the value of their public data and the level of public demand; rather they should understand what they hold, what their communities want and then release it in a way that allows the public, developers or the media to use it. This may involve users combining it with data from other sources to create new information.
9. The Freedom of Information Act 2000 requires local authorities to operate a publication scheme approved by the Information Commissioner's Office that sets out information that must be routinely published. Local authorities must comply with these requirements.
10. Local authorities should build and maintain an inventory of the public data that they hold so that people are able to know what is available to them. If public data would be released under Freedom of Information it should be included in the inventory. As this inventory is highlighted to the widest possible audience demand should grow and local authorities should expect to publish more.
11. These inventories should be registered on data.gov.uk to support a single point of access for all public data from national and local government.
12. As a minimum, the public data that should be released are:
 - Expenditure over £500, (including costs, supplier and transaction information). Any sole trader or body acting in a business capacity in receipt of payments of at least £500 of public money should expect such payments to be transparent.
 - Senior employee salaries, names (with the option for individuals to refuse to consent for their name to be published), job descriptions, responsibilities, budgets and numbers of staff. 'Senior employee salaries' is defined as all salaries which are above £58,200 and above (irrespective of post), which is the Senior Civil Service minimum pay band. Budgets should include the overall salary cost of staff reporting to each senior employee.
 - An organisational chart of the staff structure of the local authority including salary bands and details of currently vacant posts.

- The 'pay multiple' – the ratio between the highest paid salary and the median average salary of the whole of the authority's workforce.
- Councillor allowances and expenses.
- Copies of contracts and tenders to businesses and to the voluntary community and social enterprise sector.
- Grants to the voluntary community and social enterprise sector should be clearly itemised and listed.
- Policies, performance, external audits and key inspections and key indicators on the authorities' fiscal and financial position.
- The location of public land and building assets and key attribute information that is normally recorded on asset registers and
- Data of democratic running of the local authority including the constitution, election results, committee minutes, decision - making processes and records of decisions.

OPEN

13. Provision of public data should become integral to local authority engagement with residents so that it drives accountability to them. Its availability should be promoted and publicised so that residents know how to access it and how it can be used. Presentation should be helpful and accessible to residents and other interested persons.
14. Public data should be published in a format and under a licence that allows open re-use, including for commercial and research activities, in order to maximise value to the public. The Open Government Licence published by The National Archive should be used as the recommended standard. Where any copyright concerns exist with public data these should be made clear.
15. Publication should be in open and machine-readable formats. The recommended 5 step journey to a fully open format is:
 - * Available on the web (whatever format) but with an open license
 - ** As for one star plus available as machine-readable structured data (e.g. Excel instead of image scan of a table)
 - *** As for two star plus use a non-proprietary format (e.g. CSV and XML)
 - **** All the above plus use open standards from the World Wide Web Consortium (such as RDF and SPARQL21) and
 - ***** All the above plus link your data to other people's data to provide context
16. Local authorities should use a risk management approach with strong internal control arrangements to reduce the risk of any payment fraud as a result of publishing public data. Local authorities should refer to the Chartered Institute of

TIMELY

17. The timeliness of making public data available is often of vital importance. It should be made published as soon as possible following production even if it is not accompanied with detailed analysis. Where practical, local authorities should seek to publish in real time.
18. Public data should be as accurate as possible at first publication. While errors may occur, the publication of information should not be unduly delayed to rectify mistakes. Instead, publication should be used to help address any imperfections and deficiencies. This concerns errors in data accuracy not errors in redacting personal data, which is covered below. The best way to achieve this is by having robust information management processes in place.
19. Where errors in public data are discovered, or files are changed for other reasons (such as omissions), local authorities should publish revised information making it clear where and how there has been an amendment. Meta data on data.gov.uk should be amended accordingly.

Exclusions and exemptions

20. Local authorities must comply with the law on data protection, and so must not release data if that would contravene the Data Protection Act 1998 or sections 100A, 100B or 100F LGA 1972. Where information would fall within one of the exemptions from disclosure under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, INSPIRE Regulations 2009 or falls within Schedule 12A LGA 1972 then it is in the discretion of the local authority whether or not to rely on that exemption or publish the data. However, the Government believes that local transparency can be implemented in a way that complies with the Data Protection Act.

SIGNED: Shehla Husain, a Senior Civil Servant in the Department for Communities and Local Government

**Department for Communities and Local Government
28 September 2011**



**Openness and accountability in local pay: Draft guidance
under section 40 of the Localism Act**

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Introduction

This guidance applies in relation to England only.

1. Sections 38 to 43 of the Localism Act 2011 ('the Act') apply to 'relevant authorities'. Relevant authorities in England, as listed in section 43 (1) of the Act, are:
 - a county council
 - a district council
 - a London borough council
 - the Common Council of the City of London in its capacity as a local authority
 - the Council of the Isles of Scilly
 - the London Fire and Emergency Planning Authority
 - a metropolitan county fire and rescue authority, or
 - a fire and rescue authority constituted by a scheme under section 2 of the - Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
2. Relevant authorities are required by section 38(1) 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 prepared for each financial year, beginning with 2012/13. They must be approved by Full Council, or a meeting of members in the case of a Fire and Rescue Authority, and published.
3. This guidance sets out the key policy principles that underpin the pay accountability provisions in the Act. It is issued by the Secretary of State for Communities and Local Government, and by section 40(1) of the Act, relevant authorities in England must have regard to this guidance in performing their functions in preparing and approving pay policy statements.

Scope

4. The provisions in the Act do not apply to the staff of local authority schools and therefore teaching staff need not be brought within the scope of a pay policy statement.
5. Nothing in the pay accountability provisions in the Act or in this guidance is intended to supersede existing responsibilities and duties placed on authorities in their role as employers, under relevant employment legislation, and authorities must, of course, bear in mind these responsibilities and duties when formulating a pay policy statement. Discussion of an authority's policies in relation to pay would not engage the Data Protection Act as it does not concern data relating to a particular individual.

6. Each local authority is an individual employer in its own right and has the autonomy to make decisions on pay that are appropriate to local circumstances and which deliver value for money for local taxpayers. The provisions in the Act do not seek to change this or to determine what decisions on pay should be taken or what policies that individual employing authorities should have in place. Rather, they only require that authorities are more open about their own local policies and how their local decisions are made.

Policy principles

7. It is estimated that, between 2001 and 2008, median top salaries in local government grew at faster rates than entry salaries.¹ In that context, around 800 local government employees are in the top 1% of all earners.² The decisions about the pay and reward of senior local authority staff which have underpinned this growth have, for too long, been taken without the accountability and transparency that many would expect.
8. In the Coalition Agreement, the Government made a commitment to strengthen councillors' powers to vote on large salary packages for council officers. In addition, this Government has taken necessary steps to increase transparency about how taxpayers' money is used, including in the pay and reward of public sector staff. The Secretary of State published the Code of Recommended Practice for Local Authorities on Data Transparency on 29 September 2011³. The Code enshrines the principles of transparency and asks councils to follow three principles when publishing data they hold; responding to public demand; releasing data in open formats available for re-use; and, releasing data in a timely way. This includes data on senior salaries and the structure of their workforce.
9. In June 2010, the Government asked Will Hutton to undertake an independent review of Fair Pay in the public sector. Hutton's Final Report was published in March 2011 and made several recommendations for promoting pay fairness in the public sector by tackling disparities between the lowest and the highest paid in public sector organisations.⁴ The Government welcomed these recommendations.
10. The provisions in the Act bring together these strands of increasing accountability, transparency and fairness in the setting of local pay. They require councillors (in the case of local authorities) or elected Members (in the case of other relevant authorities) to take a greater role in determining pay, ensuring that these decisions are taken by those who are directly accountable to local people. Alongside the Code on transparency, the Act's provisions will ensure that communities have access to the information they need to determine whether remuneration, particularly senior remuneration, is appropriate and commensurate with responsibility. In addition, they will ensure that policies on the pay and reward of the most senior staff are set clearly within the context of the pay of the wider workforce.

¹ Page 9: Hutton Review of Fair Pay in the Public Sector: Interim report (December 2010)

² Page 41: Hutton Review of Fair Pay in the Public Sector: Interim report (December 2010)

³ Available at: www.communities.gov.uk/publications/localgovernment/transparencycode

⁴ Available at: www.hm-treasury.gov.uk/indreview_willhutton_fairpay.htm

Accountability

11. The Secretary of State considers that decisions on pay policies should be taken by councillors or elected members - those who are directly accountable to local communities. Authorities should ensure that all democratically accountable members have a significant input into how decisions on pay are made, particularly on decisions on senior pay, and that they are open about the policies that determine those decisions.
12. That is why the Act requires that pay policy statements, and any amendments to them, are considered by a meeting of full council (or a meeting of Members) and cannot be delegated to any sub-committee. In scheduling such meetings, authorities should act in accordance with their responsibilities under part 5A of the Local Government Act 1972. However, the Secretary of State does not consider that any of the grounds for exclusion of the public would be met for discussions of pay policy statements. Such meetings should therefore be open to the public and should not exclude observers. All decisions on pay and reward for chief officers must comply with the current pay policy statement.
13. In addition, under these arrangements, full council should be offered the opportunity to vote before large salary packages are offered in respect of a new appointment. The Secretary of State considers that £100,000 is the right level for that threshold to be set. For this purpose, salary packages should include salary, any bonuses, 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.

Transparency

14. It is essential that an authority's approach to pay, as set out in a pay policy statement, is accessible for citizens and enables local taxpayers to take an informed view of whether local decisions on all aspects of remuneration are fair and make best use of public funds. Approved pay policy statements must be published on the authority's website and in any other manner that the authority thinks appropriate, as soon as is reasonably practicable after they are approved or amended.
15. The Act also requires that authorities include in their pay policy statements, their approach to the publication of and access to information relating to the remuneration of chief officers. Remuneration includes salary (for chief officers who are employees) or payment under a contract for services (for chief officers who are self-employed), expenses, bonuses, performance related pay as well as severance payments.
16. The definition of chief officers (as set out in section 43(2)) is not limited to Heads of Paid Service or statutory chief officers. It also includes those who report directly to them (non-statutory chief officers), to their direct reports (deputy chief officers) and, in the case of a Fire and Rescue Authority, a Deputy Chief Fire Officer. Authorities are reminded that the Act sets out the information that they are required to include in their pay policy statements as a minimum. Authorities should consider whether, in the light of local circumstance and their

own reward structure, it would be appropriate to extend the scope of their pay policy statement to include highly paid staff who would not come within the definition of chief officers.

17. The Act does not require authorities to use their pay policy statements to publish specific numerical data on pay and reward. However, authorities should consider how the information set out within their pay policy statements fits with that data on pay and reward that they publish separately. This includes that data required to be published under the Code of Recommended Practice for Local Authorities on Data Transparency and by the Accounts and Audit (England) Regulations 2011. Indeed, pay policy statements offer an opportunity to put that data firmly within the context of the Council's agreed policies, and to provide the public with a clear justification of how their money is being used appropriately in the pay and reward of senior staff.

Fairness

18. In his interim report, Will Hutton found that top managers in local government have seen larger increases in pay than the lowest paid in their workforces and the pay ratios between local authority chief executives and the lowest paid in local councils have grown in the last ten years.⁵ In his final report, Will Hutton went on to highlight that there is value in ensuring that decisions about senior pay are taken in the context of similar decisions on lower paid staff, and that the relationship between those decisions is considered.⁶
19. The Government agrees that the type of approach Hutton recommends will enable a clearer debate about whether pay levels across an organisation are fair, and whether differing approaches to the pay and reward are justified. In this context, the Act requires authorities to set their policies on remuneration for their highest paid staff alongside their policies toward their lowest paid employees. In addition, it requires authorities to explain what they think the relationship should be between the remuneration of its chief officers and its employees who are not chief officers.
20. Hutton recommended the publication of an organisation's pay multiple – the ratio between the highest paid employee and the mean average earnings across an organisation – as a means of illustrating that relationship.⁷ The Code of Recommended Practice for Local Authorities on Data Transparency includes pay multiples within the minimum set of data that authorities should publish.⁸ Authorities should include their current policy towards maintaining or reaching a specific pay multiple within their broader policy on how pay and reward should be fairly dispersed across their workforce.
21. Section 38(4) of the Act specifies that in addition to senior salaries, authorities must also make clear what approach they take to the award of other elements of senior remuneration, including bonuses, performance related pay as well as severance payments. This should include any policy to award additional fees

⁵ Page 48: Hutton Review of Fair Pay in the Public Sector: Interim report (December 2010)

⁶ Chapter 2: Hutton Review of Fair Pay in the Public Sector: Final report (March 2011)

⁷ Chapter 2: Hutton Review of Fair Pay in the Public Sector: Final report (March 2011)

⁸ Available at: www.communities.gov.uk/publications/localgovernment/transparencycode

for chief officers for their local election duties. While some authorities have taken the local decision to include such fees within a chief officer's overall salary, others pay separate fees. Authorities should make clear in their pay policy statements which approach applies and, if separate fees are paid, describe their approach to setting and publishing these.

22. In articulating their policies on performance related pay, authorities should consider Will Hutton's recommendations on the value of a system of 'earn back' pay. Hutton considered that senior staff could have an element of their basic pay 'at risk', to be earned back each year through meeting pre-agreed objectives. It was his view that such an approach would allow pay to vary with performance, and ensure that public services do not offer rewards for failure.⁹
23. Authorities should ensure that the way they manage their workforce – including payments offered to staff leaving the authority – delivers the best value for money for local taxpayers and sets the right example on restraint. Authorities are already required to publish their policy on offering discretionary compensation for relevant staff in the event of redundancy.¹⁰ The Act is intended to bring out in the open the approach an authority may take in offering a severance payment to senior staff as part of a decision to terminate a contract for any reason. As with other elements of a pay policy statement, any decision that authority takes in relation to the award of severance to an individual chief officer, must comply with their published policy for that year and should represent value for money for taxpayers.
24. Taxpayers should rightly expect that their interests are being protected including when senior staff move posts within the public sector, particularly when those moves could be seen to have the effect of driving up average pay levels across the sector. In addition, taxpayers should have the opportunity to question whether they are getting value for money from arrangements where it could appear that the public sector is paying an individual twice – through salary and a pension – for doing the same job. Authorities should have an explicit policy in their pay statement on whether or not they permit such practices within their workforces.
25. Authorities should use their pay policy statements to explain their policies toward the reward of chief officers who were previously employed by the authority and who, on ceasing to be employed, were in receipt of a severance or redundancy payment from that authority. This should include any local policy toward ex-employees later engaged as chief officers under a contract for services. Similarly, authorities should include their policies toward the reward of chief officers who are also in receipt of a pension under the Local Government Pension Scheme or relevant Fire Fighter Pension Scheme. These policies should take account of their agreed approach on abatement of pensions.

⁹ Chapter 3: Hutton Review of Fair Pay in the Public Sector: Final report (March 2011)

¹⁰ Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

Scope for local variation

26. Pay policy statements must include an authority's policies towards the remuneration of its lowest paid employees. The Act also does not seek to impose a single definition of "lowest paid" for these purposes. Instead, the Act requires authorities to develop their own definition of "lowest paid", one which fits appropriately with their own local circumstances and explain why they have chosen that definition. In formulating such a definition, authorities may wish to consider any guidance provided by the sector for this purpose and whether it is appropriate to consult with relevant parties.
27. Section 38(4) sets out in detail the specific elements which a pay policy statement must include in relation to senior pay. In addition to the information which is required by section 38(2)(b) (policies on the remuneration of an authority's lowest paid employees), it is open to authorities to mirror this level of detail within the pay policy statement for their approach to the pay of those who are not chief officers.
28. Finally, while section 38 of the Act specifies the information which must be included in a pay policy statement, authorities can include any additional information relating to their policies on pay that they consider is appropriate to do so.
29. For example, an authority which has or develops a local policy towards the pay of staff working for external contractors with whom the authority has contracted to perform services, may wish to articulate that policy in their pay policy statement. Similarly, an authority may consider it relevant or appropriate to explain their approach to any shared senior management arrangements that it has in place.

Comments or views

30. This guidance is published in draft. If you have any comments or views on this guidance, please submit them using the details below. The deadline for submitting comments is Friday 16 December 2011.

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