

<b>Committee:</b>	Administration and Regulation Committee		
<b>Date of Meeting:</b>	23 February 2021		
<b>Subject:</b>	The Living Wage		
<b>Report Author:</b>	Service Director, Customer and Organisation Development		
<b>Contact Officer:</b>	Anne Davies, HR Business Manager, HR Strategy 01582 546330		
<b>Implications:</b>	Legal	<input checked="" type="checkbox"/>	Community Safety <input type="checkbox"/>
	Equalities	<input checked="" type="checkbox"/>	Environment <input type="checkbox"/>
	Financial	<input checked="" type="checkbox"/>	Consultations <input checked="" type="checkbox"/>
	Staffing	<input checked="" type="checkbox"/>	Other <input type="checkbox"/>
<b>Wards Affected:</b>	None		

## Purpose

1. To consider whether to apply the new real Living Wage rate of £9.50 per hour from 1 April 2021.

## Recommendations

2. **The Committee is recommended to consider three options and to decide which they wish to agree:**

- (i) That from 1 April 2021 the new real Living Wage rate of £9.50 per hour be adopted by the council, by applying a pay supplement to the lowest two spinal column points (SCPs 1 and 2) on the NJC pay spine and that schools be encouraged to pay the same.

OR

- (ii) That the council awaits the outcome of the NJC national pay negotiations (effective from 1 April 2021) before determining any pay supplements to align to the Living Wage

OR

- (iii) That the Council continues to pay a supplement on Spinal Column Point (SCP) 1, £9.25 per hour to match the real Living Wage rate (April 2020) of £9.30, thus maintaining pay at £9.30 per hour, at the base of the NJC pay spine until such time as the uplifted NJC pay spine is implemented.

## Background

3. Administration and Regulation Committee agreed to adopt the real Living Wage at £9.30 per hour from 1 April 2020. Currently it is applied to SCP1 (£9.25 per hour) on the NJC pay spine, as SCP 2 is £9.43 per hour and therefore exceeds the real Living Wage.
4. The Council has adopted every uplift announced by the Living Wage Foundation, since 1 October 2014, apart from in 2019/20 when the lowest point on the NJC pay spine equalled the real Living Wage and no pay supplement was required.

5. Since 2014, the Council has reviewed the new rate for the real Living Wage announced each November and has taken a decision whether to adopt the increase with effect from the following April.
6. There are separate hourly rates for the National Minimum Wage (NMW) and National Living Wage (NLW) depending on age and for apprentice pay. With effect from 1 April 2021, the National Minimum Wage will increase to £4.62 per hour (16 – 17 years), £6.56 per hour (18 – 20 years) and £8.36 per hour (21 – 22 years).
7. Employees from age 23 are entitled to the National Living Wage which will increase to £8.91 per hour from April 2021. Apprentices aged under 19, aged 19 or over in their first year of their apprenticeship will be entitled to receive £4.30 per hour. The Council's lowest spinal column point (SCP 1) is currently £9.25 per hour, which is greater than the prospective NMW or NLW.
8. The council encourages its community schools to adopt the real Living Wage.
9. Despite the Government's announcement as part of the autumn spending review, to impose a public sector pay freeze for 2021/22, the LGA has stated that pay for local government employees who are paid on the NJC pay spine is subject to national pay negotiations with the trades unions. Therefore, at the time of writing this report, it is not possible to determine the lowest spinal column points of the NJC pay spine from April 2021.
10. The pay supplement can be adjusted or removed depending on the agreed NJC pay uplift, which will increase the hourly rates at the base of the pay spine.
11. The real Living Wage, uplifted to £9.50 per hour, if agreed by Committee, will entail a pay supplement of 25p per hour on SCP 1 (currently £9.25 per hour L1a) and a supplement of 7p per hour on SCP 2 (currently £9.43 per hour L1b) based on the 2019/20 pay spine.
12. Provision has been made in the 2021/22 salaries budgets for the extra costs associated with the Living Wage pay supplement for directly employed council staff.

## Report

13. On 9 November 2020 the Living Wage Foundation announced a 2.15% increase in the real Living Wage for the UK from £9.30 per hour to £9.50 per hour.
14. If agreed by the council, the new real Living Wage supplement will apply to employees in grade L1a (SCP 1) and L1b (SCP 2 only), based on the 2020/21 NJC pay spine. The pay supplement will apply until such time as the pay award takes effect. The next point on the pay spine is currently £9.62 per hour and sits above the Living Wage.
15. There are currently in post, 114 employees (40 full time equivalents - FTEs) on SCP 1 and 2, directly employed by the council. However, 98 of these employees are within the LBC Schools Catering service which is due to cease on 31<sup>st</sup> March 2021.
16. Provision has been made within salaries estimates for 2021/22 to pay the remaining 16 council employees the Living Wage as a minimum. These roles are school crossing patrol, surveillance officers and street cleansing operatives.

17. There are 35 community schools, for which the council holds payroll details and where staff are employed at SCP1 and/or SCP 2. Within these community schools there are 665 employees (146.33 full time equivalents – FTEs) on SCP1 and 2.
18. At present, only 13 out of the 35 community schools adopt the Living Wage at £9.30 for those on SCP 1 and 2. All of these schools have fewer than 5 FTEs who receive these pay supplements.
19. There are 12 community schools who do not currently adopt the real living wage and where there are fewer than 5 FTEs who would be due these pay supplements.
20. The 4 community schools who employ the highest number of FTEs at SCP1 and 2, employ 7, 7.2, 7.93 and 17.53 FTEs respectively. The remaining 6 schools each employ between 5 and 7 FTEs at these pay levels. At Schools Forum on 20<sup>th</sup> January 2021, the HR Business Manager, HR Strategy strongly encouraged the schools to adopt the living wage, especially where the staff affected numbers were quite small.
21. Boards of Governors are responsible for agreeing and funding the living wage within their respective schools.

## Proposals

22. The Committee is recommended to consider three options and to decide which they wish to agree:
  - (i) That from 1 April 2021 the new real Living Wage rate of £9.50 per hour be adopted by the council, by applying a pay supplement to the lowest two spinal column points (SCPs 1 and 2) on the NJC pay spine and that schools be encouraged to pay the same.

**OR**

  - (ii) That the council awaits the outcome of the NJC national pay negotiations (effective from 1 April 2021) before determining any pay supplements to align to the Living Wage

**OR**

  - (iii) That the Council continues to pay a supplement on Spinal Column Point (SCP) 1, £9.25 per hour to match the real Living Wage rate (April 2020) of £9.30, thus maintaining pay at £9.30 per hour, at the base of the NJC pay spine until such time as the uplifted NJC pay spine is implemented.
23. In previous years, the Committee has agreed to adopt the real Living Wage in line with option (i) above.

## Appendix

None

## List of Background Papers - Local Government Act 1972, Section 100D

None

## Implications

Item	Details	Clearance Agreed By	Dated
<b>Legal</b>	<p>The implementation of a Living Wage will give rise to equal pay risks. To ensure that any potential Equal Pay risks are mitigated it is essential that the principles of the real Living Wage are applied consistently across the council for directly employed staff and for those (non-teaching) employees within Luton's maintained community schools whose pay is determined by the schools' Boards of Governors.</p> <p>In order for the council to continue to justify and defend challenges to its current Job Evaluation Scheme it is essential that the current grading structure, including the current scale points matched against current job scoring is maintained. The application of the real Living Wage should also be reviewed periodically to ensure that any anomalies can be addressed</p> <p>The application of the real Living Wage has the effect of uplifting those currently on L1a (SCP 1) onto the pay rate equivalent to grade L1b. An employee whose job content has been evaluated at grade L1a is in fact 'paid' at an hourly rate equivalent to grade L1b as a result of receiving a pay supplement to equal the real Living Wage. Uplifting employees currently on L1b (SCP 2) to the Living Wage maintains the integrity of the Job Evaluation Scheme as their pay remains within L1b - the top of L1b being £9.62 per hour.</p> <p>On the balance of probabilities it is more likely than not, that the council will be able to justify the differential treatment compared to other employees. Paying the Living Wage is a national initiative and represents a proportionate means of achieving a legitimate aim. It addresses poverty – a key strategic priority for the council. However, there is no binding case law on this subject at the moment and therefore it is not possible to say with any degree of certainty</p>	Jasbir Josen, Senior Solicitor	4 <sup>th</sup> February 2021

Item	Details	Clearance Agreed By	Dated
	<p>that such a defence would succeed in an employment tribunal.</p> <p>Boards of Governors in the council's maintained community schools should be strongly encouraged to apply the same real Living Wage in schools for those non-teaching staff whose pay is determined by the Board of Governors. This ensures that the minimum wage paid by the school to these staff is at the same minimum level as the council pays to its directly employed workforce. Ensuring that neither the school nor the council is subject to equal pay litigation is the key consideration.</p>		
<b>Finance</b>	<p><b>General Fund</b> For directly employed council staff, any additional costs associated with paying the necessary pay supplements to align SCP 1 and 2 to the Living Wage can be contained within the estimated salaries costs allowed for 2021/22. Therefore, there would be no financial impact on the General Fund, over and above that which has been agreed for draft budgets 2021/22, if the council agrees to pay the Living Wage for its workforce.</p> <p><b>Schools where pay is determined by Boards of Governors</b> In total, there are approximately 146 full time equivalent employees across all 35 Luton maintained community schools (for which the council holds pay data) who are paid at SCP1 (141.71 FTEs) and SCP2 (4.62 FTEs). Individual schools take decisions on whether or not to adopt and fund the Foundation Living Wage.</p>	Darren Lambert, Finance Business Partner (on behalf of Dev Gopal, Director of Finance, Revenues and Benefits (Section 151 Officer) )	5 <sup>th</sup> February 2021
<b>Equalities</b>	An equality analysis was undertaken prior to the introduction of the voluntary Living Wage, which identified that the proposal benefited the lowest paid employees within the Council who are predominantly female and part time. If the Living Wage rate was increased this would continue to be the case.	Maureen Drummond, Cohesion and Equalities Adviser	8 <sup>th</sup> February 2021

Item	Details	Clearance Agreed By	Dated
	<p>91% of the 114 directly employed council staff who are paid on spinal points 1 and 2 are female.</p> <p>97% of the 665 employees who are paid on spinal points 1 and 2 in Luton's maintained community schools are female.</p>		
<b>Environment</b>			
<b>Community Safety</b>			
<b>Staffing</b>	The staffing implications are as detailed in the report.	Aidan Wilkie, Service Director, Customer and Organisation Development	1 <sup>st</sup> February 2021
<b>Consultations</b>	<p><b>Luton Schools Forum</b> Consultation on the proposed increase took place with the Schools Forum on 20<sup>th</sup> January 2021. As previously, the Forum expressed concerns about the impact the increase will have on their budgets and that adopting the FLW will further erode the differential in pay with L2 and L3 posts. For many years, schools' budgets have been under pressure and in 2018/19 when pay supplements were last required to match the Living Wage, the majority of community schools chose not to adopt the increase.</p> <p><b>Trade Unions</b> The Trade Unions believe that workers should earn no less than the real Living Wage rate and therefore support the proposal to agree this increase.</p>		
<b>Other</b>			