

**The Fair Work Charter
&
Foundation Living Wage Accreditation
Report of the Projects Delivery Lead**

PURPOSE OF REPORT

To inform the committee on the progression of the Fair Work Charter and detail information on the Foundation Living Wage Accreditation process, and to seek a decision on the implementation of these within our own organisation.

This report is public.

RECOMMENDATIONS

Following consideration of any comments by trade unions tabled at the meeting from the previous JCC, that:

- **The committee agrees that the Council as an employer will commit to the Fair Work Charter Journey.**
- **The committee approves the Council's commitment to achieving and maintaining Foundation Living Wage Accreditation.**

Taking into consideration:

- **The required uplift for our own staff in line with the new real living wage rate (£10.90)**
- **The required commitment to advocating payment of the RLW to third party contracted staff within procurement processes.**
- **The annual fee required to retain Real Living Wage status**

1.0 Introduction and background

1.1 In line with our commitment under Plan 2030 to Fair Work and an inclusive prosperous economy, the Council is undertaking a project to seek to implement a Fair Work Charter in the district to assist in addressing labour market inequalities and encourage good employment practices.

1.2 It was agreed by Cabinet on 17th January 2023 that, following internal consultation, the final internal draft of the charter would now progress to external engagement and consultation and would be further developed through a partnership model with the plan to launch this later in the year to local business. A copy of the final internal version of the charter is appended.

- 1.3 One key element of Fair Work, and a topic which the Council has considered previously, is Fair Pay, specifically the payment of the Real Living Wage and pursuing formal Foundation Living Wage Accreditation.
- 1.5 This report outlines our current position with regards to the Real Living Wage and the steps required to achieve Foundation Living Wage Accreditation.
- 1.6 Fair Pay is the most important element of Fair Work regardless of how the Charter itself is taken forwards. When Councils become accredited, the Living Wage Foundation reports that they have seen a ripple effect on the local labour market with other organisations wanting to find out more and seek their own accreditation. Currently there are only 22 Accredited Foundation Living Wage employers in the district.
- 1.6 The Real Living wage is currently set at £10.90 outside of London. It is voluntarily paid by employers and is the only wage rate which is based on what people need to live. It is applicable to those 18 years or older and is based on a calculation made according to the cost of living, based on a 'basket' of household goods and services.
- 1.6 The Real living wage should not be confused with the National Minimum wage (£9.18) or the National Living Wage (£9.50) which are statutory rates and are a legal requirement. The adoption of the Real Living wage as mentioned above is voluntary.
- 1.7 The real living wage rate is uplifted each year and normally organisations have 6 months to implement the change to their rates of Pay. This year the council has until May.
- 1.9 There are two criteria to become a real living wage employer:
- We must pay all our own directly employed staff the real living wage
 - We must ensure that all third-party contractors also pay a real living wage to their staff.

2.0 Commitment to our own Fair Work Charter Journey

- 2.1 It is expected that as a leading member of the charter partnership that the Council will commit to its own charter journey and seek to improve where required its employment practices in line with the themes contained. Members of the personnel committee are requested to formalise this commitment further to a referral from Cabinet regarding our own employees.
- 2.2 The key elements of the charter will be integrated with the People Plan which is currently being developed to progress in our own journey from supporter to Member and then through to ambassador.
- 2.3 The Council will seek to publicise its own best practice examples of the different elements of the Charter as part of the eventual roll out to wider businesses in our communities.

3.0 Current Position – Real Living Wage

- 3.1 Personnel Committee agreed in 2013 that the Council would pay the Real Living Wage to its employees though a top up supplement for those who earn the lowest SCP points.
- 3.2 Subsequently in 2015 it was decided that the Real Living Wage would be permanently integrated into our pay scale meaning that our lowest SCP point payable currently sits at living wage rate for 2022.

3.3 The Committee previously decided not to pursue to full accredited status, as advised by officers, as this would require a full assessment of our third party contracted staff and amendments to our procurement processes.

4.0 Actions required to gain Foundation Living Wage Accreditation

4.1 Our own employees

4.1.2 The council is yet to implement the changes to the living wage rate for this year, (2023) to become accredited we would need to uplift our lowest SCP point (SCP 3) £10.79 to the new Foundation Living Wage rate £10.90 a rise of 11p per employee per hour worked.

4.1.3 An assessment of our current employees has indicated that there are 55 staff who are currently on SCP 3 many of which are employed on part time and casual hours. To uplift these staff onto Real Living Wage Rates it is estimated that this will cost £7,500 in 2023/24. This rise however is already budgeted for in line with our predictions for the next annual pay award, at which point it is estimated our pay point for SCP 3 will rise to meet the Real Living Wage rate.

4.1.3 As stated above a decision has already been taken regarding this in 2015 and this decision is referenced in our Pay Policy Statement as follows:

14.3 The Council ensures that all staff (aside from Apprentices) are paid at least the 'Real Living Wage' rate. Spinal Column Point (SCP) 3 automatically defaults to the Living Wage on 1st April each year and the Council uses this to define its 'lowest paid' employees.

4.2 Third Party Contractors

4.2.1 An assessment has been conducted of the contracts we currently hold and only one contract has staff employed that are paid below the Real Living Wage (4 employees). This contract however is due to end in March of this year.

4.1.2 The Living Wage Foundation have confirmed that we therefore do not need to demonstrate that we have a plan in place to bring our third-party contracts in line, as they all meet the current criteria or are ending before our accreditation begins.

4.2.3 We do, however, need to ensure, to the extent permitted by law, that our procurement processes for third party contracts highlight our own commitment to the Real Living Wage. We need to actively advocate payment of the Real Living Wage and publicise our own commitment.

4.2.4 This may mean a slight uplift in the overall cost associated with any particular contract, as businesses seek to bring their staff in line with the RLW in support of the council's commitment.

4.3 Annual Accreditation Fee

4.3.1 Each organisation that becomes accredited needs to pay an annual fee to the Foundation to remain accredited. The current fee for a public sector organisation of our size is £480.00, the cost of which it is proposed will be met from the existing Human Resources Subscriptions Budget.

5.0 Conclusion

5.1 Commitment to our own Fair Work Charter Journey, and a commitment to become Foundation Living Wage accredited, ensures that the Council is settling an example as

the local authority in continuing to lead as a Fair Employer and is highlighting best practice. It also enhances our employer brand and supports our ambition to become an employer of choice.

6.0 Options

- 6.1 The options available to the committee are to approve our commitment to our own fair work charter journey and the Real Living Wage Accreditation or to reject the recommendations and to maintain our current position as an employer.
- 6.2 The risk of rejecting the proposals are that Cabinet would likely need to review the decision to externally consult and develop a partnership for the Fair Work Charter as we would not be supporting our own initiative.

RELATIONSHIP TO POLICY FRAMEWORK

This report is presented in support of the delivery of key priorities and outcomes as set out and agreed within Plan 2030.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising from this report. The charter aims to reduce labour market inequality a key linked component of which is climate justice as an integral part of social justice and economic prosperity.

FINANCIAL IMPLICATIONS

As set out in the report. With regard to paying the new Foundation Living Wage rate of £10.90, an inflationary uplift which would exceed this amount is already included in the approved revenue budget for 2023/24. The c.£480 annual fee to the Foundation to remain accredited can be met from existing budgets.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no additional comments to make regarding the financial implication of this report. However, as the officer responsible for procurement similar to the Monitoring Officer he would draw members attention the comments set out in the legal implications.

LEGAL IMPLICATIONS

Legal Services have obtained external advice with regard to pursuing the Living Wage Accreditation. Whilst there is nothing to prevent the Council from paying its own employees the Foundation Living Wage, it is not recommended that the Council make it a requirement in its Procurement Strategy. The reason behind this is that the Council has to exercise its procurement functions without reference to matters that are "non-commercial considerations" (s.17(1) of the Local Government Act 1988) which would include workforce matters such as contracting parties having to pay their employees the Real Living Wage.

The recommendation from external advisors is that they consider that to make RLW a standard mandatory requirement of the Council and include it in all of its T&Cs therefore would very likely be a breach of PCR 2015. They do not recommend that we proceed with accreditation. Their recommendation is that the Council considers in each procurement whether the RLW can be legitimately required given the subject matter of the contract being procured.

Other authorities have gone ahead and achieved accreditation, therefore making it a requirement of all contracting bodies to pay their employees the Real Living Wage, and therefor may have considered that the risk of challenge to their Procurement Strategy (as being non-PCR 2015 compliant) is minimal.

Legal Services advises that there is no legal barrier to paying its own employees Foundation Living Wage Council. Council can also make its commitment to the Real Living Wage clear in terms of this being desirable from those they contract with but should not add this immediately to its Procurement Strategy without taking further steps to assess the likelihood of challenge.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and would draw members attention to the legal implications above.

BACKGROUND PAPERS

Fair Work Charter Final Approved Internal draft Jan 2023.

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