

**Public Report**  
**Birmingham City Council**  
**Report to Cabinet**  
**15 December 2020**



**Subject:** Equal Pay  
**Report of:** The Chief Finance Officer (s151 Officer), the City Solicitor and Monitoring Officer and Director of HR  
**Relevant Cabinet Member:** Councillor Ian Ward – Leader of the Council  
**Relevant O &S Chair(s):** Councillor Sir Albert Bore and Councillor Carl Rice  
**Report author:** Suzanne Dodd, City Solicitor and Monitoring Officer

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – all wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential :		
Exempt appendices 1, 2, 3 and 4 are exempt from public disclosure under paragraphs 4 and 5 of schedule 12A of the Local Government Act 1972.		

## **1 Executive Summary**

- 1.1 Equal pay continues to present a challenge for the Council. Further to a Cabinet decision in December 2018 authorising the settlement of post-2011 equal pay claims, ongoing negotiations have been taking place with trade unions, and the purpose of this report is to approve the final terms of the settlement of prospective and likely post-2011 equal pay claims.

- 1.2 The exempt appendices are exempt from public disclosure under paragraphs 4 and 5 of schedule 12A of the Local Government Act 1972. The exemptions relied on are as follows:
- 1.2.1 Sch. 12A, para. 4 – ‘information relating to any consultations or negotiations, or contemplated negotiations, in connection with any labour relations matter arising between the authority or Minister of the Crown and employees of, or office holders under, the authority’; and
- 1.2.2 Sch. 12A, para. 5 – ‘information in respect of which legal professional privilege could be maintained in legal proceedings.’
- 1.3 These provisions apply because the equal pay claims, and the reasons for them, are subject to legal proceedings and/or are subject to negotiations with solicitors and trade unions acting for the claimants and/or are commercially sensitive and subject to legal professional privilege.

## **2 Recommendations**

- 2.1 That Cabinet authorises the settlement proposals that have been put forward to trade unions as set out in exempt appendix 4.
- 2.2 Further to the Cabinet approval from 3 December 2018, Cabinet note that the expenditure is still in line with that approval.

## **3 Background**

- 3.1 Authority for the settlement of potentially prospective equal pay claims was first granted by Cabinet on 25 July 2011. Cabinet approved the proposed decision of the Chief Executive to settle all equal pay claims issued in the Employment Tribunal by employees of the Council subject to adequate financial provision.
- 3.2 Since that time, Cabinet has approved the decision of the Chief Executive to make certain pay settlements taken under delegated authority granted by the report to Cabinet dated 25 July 2011. Further approval to an updated equal pay strategy was granted by Cabinet in July 2014, to include the establishment of the Cabinet Equal Pay Subgroup comprising the Leader, Deputy Leader and Chief Executive, and again in July 2015, August 2017, February 2018 and December 2018. The Chief Executive has continued to authorise certain equal pay settlements in line with the strategy approved by Cabinet and the Cabinet Equal Pay Subgroup.
- 3.3 Further background information is set out in exempt appendix 1.

## **4 Options considered and Recommended Proposal**

- 4.1 The options considered are set out in exempt Appendix 1

## **5 Consultation**

- 5.1 The Equal Pay Cabinet Committee met on 2 December 2020

## **6 Risk Management**

6.1 Please see exempt Appendix 2 and 3.

## **7 Compliance Issues:**

### **7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

7.1.1 The recommended decisions are in line with the Council's long-term financial planning and consistent with the Council's current equal pay strategy, which is to draw a line under any outstanding equal pay liability.

### **7.2 Legal Implications**

7.2.1 The power conferred by section 222 of the Local Government Act 1972, 'power of local authorities to prosecute or defend legal proceedings', enables the Council to seek to settle contemplated equal pay claims in accordance with the Public Sector Equality Duty and Equal Pay provisions within Chapter 3 of the Equality Act 2010.

7.2.2 Further legal implications are set out in exempt appendices 1 and 2.

### **7.3 Financial Implications**

7.3.1 The Council's total expenditure as a result of settling equal pay claims issued under the Equality Act 2010 and the preceding Equal Pay Act 1970 was £1.1 billion at the beginning of the 2020/21 financial year. A further estimate of liability of £153.2 million in respect of unsettled equal pay claims brought under the Equality Act 2010 was identified at 31 March 2019 and means that total expected expenditure will rise to around £1.2 billion. To date, £0.6 million of this liability has materialised and has been paid. The revenue implications of equal pay settlements have been reflected in both the budget and the Council's financial plan in relation to later years. This includes capital financing costs arising from previous years' capital expenditure, loss of income and other costs arising from asset sales and the repayment of any temporary borrowing from reserves.

7.3.2 Further financial implications are set out in exempt appendices 1 and 3.

### **7.4 Procurement Implications (if required)**

N/A

### **Human Resources Implications (if required)**

7.4.1 Further human resources implications are set out in exempt appendix 1.

### **7.5 Public Sector Equality Duty**

7.5.1 All settlement strategies to date have endeavoured to limit any adverse equality impact on staff at BCC. The recommendations at 2.1 and 4.5 of

appendix 4 furthers the Public Sector Equality Duty and ensures compliance with the Equal Pay provisions within the Equality Act (2010) (Chapter 3)

## **8 Appendices**

- 8.1 Exempt appendix 1: private report on settlement negotiations with trade unions re: potential outstanding equal pay liability
- 8.2 Exempt appendix 2: legal implications
- 8.3 Exempt appendix 3: financial implications
- 8.4 Exempt appendix 4: memorandum of understanding

## **9 Background Documents**

- 9.1 Cabinet Report dated 25 July 2011
- 9.2 Cabinet Report dated July 2014
- 9.3 Cabinet Report dated 3 December 2018