

Public Report
Birmingham City Council
Full Council
12 October 2023



Subject: Pay Equity System

Report of: Deborah Cadman, Chief Executive and Head of Paid Service,
Fiona Greenway, Interim Director of Finance and Section 151 Officer, and
Janie Berry, City Solicitor and Monitoring Officer.

Relevant Cabinet Member: Councillor John Cotton, Leader of the Council

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Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential:		
The information in this report and its appendices is exempt from public disclosure under paragraphs 3 to 5 of Schedule 12A of the Local Government Act 1972. The exemptions relied on are as follows:		
<ul style="list-style-type: none">• Schedule 12A, paragraph 3 – ‘Information relating to the financial or business affairs of any particular person (including the authority holding that information)’;• Schedule 12A, paragraph 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• Schedule 12A, paragraph 5 – ‘Information in respect of which legal professional privilege could be maintained in legal proceedings.’		
These provisions apply because the information in this report relates to financial affairs pertaining to pay, as well as negotiations in connection with a labour relations matter and trade dispute over equal pay, which has arisen between Birmingham City Council (“the Council”) and its employees. Plus, legal proceedings have been taken by some employees involved in this trade dispute, and information relating to those proceedings is included in this report, as well as legal advice, in respect of which legal professional privilege could be maintained.		

1 Purpose

- 1.1 This report provides Full Council with the outcome of an extended period of consultation with our recognised Trade Unions on a renewed job evaluation programme known hereafter as Pay Equity System (“PES”) and sets out recommended next steps. This report has been prepared following the meeting of the Council Business Management Committee (“CBMC”) on 1st September 2023. This meeting approved Option 2 as the Council’s preferred methodology based upon the signing of an underpinning Addendum to deliver “Option 2”. The CBMC meeting stipulated that the Addendum (first circulated in July 2023) needed to be signed by 9am on 11th September 2023. The deadline passed without the addendum being signed by any of the Council’s three recognised Trade Unions.

2 Recommendations

- 2.1 Full Council is recommended to :

2.1.1 Agree to the adoption and implementation of Option 4, an outsourced job evaluation methodology, as outlined in the paper to CBMC of 1 September 2023 attached at Appendix One and Two of this report.

2.1.2 Council notes that the decision is made in the context of:

(a) A Section 114 (3) Report issued by the Section 151 Officer under the Local Government Finance Act 1988 on 5th September 2023;

(b) A Section 5 Report was issued by the Monitoring Officer under Section 5 Local Government and Housing Act 1989 on 21st September 2023, as there was a failure to secure a decision relating to the implementation of a job evaluation programme;

(c) A Section 114 (2) Report issued by the Section 151 Officer under the Local Government Finance Act 1988 on 21st September 2023, triggered by the issuing of the Section 5 Report as in the opinion of the Section 151 Officer, the omission of a decision by the Council Business Management Committee has resulted in (a) a decision which involves the authority incurring additional expenditure which is unlawful, and (b) the course of action (ie inaction) if pursued to conclusion would be unlawful and cause loss or deficiency on the authority;

(d) Statutory Recommendations issued by the External Auditor, Grant Thornton, under the Local Audit and Accountability Act 2014, on 29th September 2023, which includes a recommendation to the Council that “the commencement of the job evaluation process should not be further delayed (as this

would further undermine the Council's financial sustainability)";
and

(e) potential equal pay liabilities which are estimated to be accruing
at a rate of between £5m-£14m per month from 1st April 2025.

3 Background and Latest Developments

3.1 At its meeting on 1st September 2023 the CBMC considered two options for a Pay Equity System (PES) methodology. These were:

3.1.1 Option 2: Use an adapted version of NJC Gauge in co-operation with West Midlands Employers ("WME"), Version A ("WME Gauge A"), dependent upon an agreed and signed Addendum.

3.1.2 Option 4: Outsource job evaluation to a third-party specialist supplier.

3.3 In the meeting of the 1st September 2023, CBMC considered the risks and benefits of both of the above-mentioned Options. CBMC decided that the process in Option 2 should be followed, which included a requirement that the Council's three recognised Trade Unions sign and return the addendum to the 2020 collective agreement on job evaluation by 9am on 11th September 2023.

3.4 GMB and Unison have stated in correspondence to the Council that they are not prepared to sign the Addendum underpinning Option 2. No response has been received from Unite. The Council and our Trade Unions have been involved in consultation since January 2023 to reach agreement. Consultation has involved extensive discussions, including those facilitated by an external intermediary and considerable exchanges of views, drafts and options. For example, in their letter to the Chief Executive of 11th September 2023, the GMB state they do not agree the principle of "*setting a deadline before a project plan is agreed that ensures the integrity of the work*". A core principle of the addendum previously approved by CBMC makes it clear that changes must be agreed and implemented by 1 April 2025. Appendices Three and Four refer.

3.5 Any attempt at further discussion is, likely to be protracted and in any event unlikely to result in an agreement that delivers a robust, equitable pay and grading system by 1 April 2025. Any further delay places the Council and provision of services to the Citizens of Birmingham at even greater risk. To underline the potentially catastrophic effect of any further delay Members should note the External Auditors view on the quantum of potential equal pay liability contained within the Statutory Recommendations issued on 29th September 2023. It states "*Given the risks to effective delivery of the JE process we consider that this initial estimate is now likely to be understated and the final liability the Council would have to settle in the future could well exceed £1 billion. This is in addition to the amounts already settled on past claims – over £1 billion.*" Commentary for Statutory Recommendation Two.

4 Next Steps

- 4.1 The assessment is that all reasonable attempts at reaching a compromise with a Gauge methodology (option 2) have been exhausted leaving Option 4 as the only remaining lawful option for consideration by the Council.
- 4.2 Therefore, it is recommended Full Council agrees to proceed with Option 4, the outsourced solution.
- 4.3 The Council will continue to engage with the Trade Unions and, continue to seek to work with them in the most constructive way possible.

5 Implications

Legal implications

The Council must take steps which secures a job evaluation programme which is objective, robust and can be consistently applied and be compliant with the Equality Act 2010 so as to remove the risks of job enrichment, sex discrimination and cannot be open to legal challenge and thus incur future potential equal pay liability.

The detailed legal implications in respect of job evaluation and equal pay and the implications for the Council are contained within the Report to Council Business Management Committee at Appendix Two of this Report.

Financial implications

In June 2023, the Council published the potential equal pay liability of being in the region of £650m - £760m to the period ending 31st March 2025. From 1st April 2025, the Council has an accruing monthly liability of between £5m-£14m per month until such time as a robust job evaluation methodology is implemented across the Council.

The detailed financial implications in respect of job evaluation and equal pay and the implications for the Council are contained within the Report to Council Business Management Committee at Appendix Two of this Report.

Public Sector Equality Duty

The Council must take steps which secures a job evaluation programme which is objective, robust and can be consistently applied and be

compliant with the Equality Act 2010 so as to remove the risks of job enrichment, sex discrimination and cannot be open to legal challenge and thus incur future potential equal pay liability.

6 Appendices

Appendix One: Public Report to the Council Business Management Committee – 1st September 2023

Appendix Two: Private (Exempt) Report to the Council Business Management Committee – 1st September 2023, including exempt appendices.

Appendix Three: Response received from GMB dated 11th September 2023

Appendix Four: Response received from Unison dated 11th September 2023

7 Background documents

As set out in Appendices One and Two.