

Report to:• Employment & Human Resources Committee Employment & Human Resources Committee Date of Decision:	• Report of:• The Chief Executive• • Date of Decision: Report of: 19 th June 2012
SUBJECT:	THE LIVING WAGE
Wards affected:	All

1. Purpose of report:	
1.1	This report outlines the implications for employee terms and conditions and Council structures and systems, of the Cabinet decision for Birmingham City Council to adopt the Living Wage for its employees. It makes proposals on the most appropriate mechanisms and approaches to be employed to ensure a speedy and efficient implementation.
1.2	The report identifies the risks and issues associated with implementation and makes recommended actions to be taken to mitigate against the effects of these.
2. Decision(s) recommended:	
That Committee agree:	
2.1	That as outlined in paragraph 5.3 of this report affected employees receive their normal salary and then receive an additional enhancement to uplift their pay to ensure they receive no less than the living wage.
2.2	The living wage is applied to employees regardless of their age
2.3	The living wage is applied to casual workers and that the necessary arrangements are put in place to secure this.
2.4	As outlined in paragraph 5.5 of this report an annual review of the legal risks of applying the new rate of the living wage is undertaken to ensure the Council takes all practicable steps to mitigate any risks arising from the implementation.
2.5	Note that consultation is taking place with Head Teachers regarding the implementation of the living wage in schools with a view to achieving an implementation date of 1 st October 2012 backdated to 1 st July 2012.
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3. Consultation	
3.1 Internal	Consultation regarding the report has been undertaken with the Deputy Leader, Chair of Resources, Governance and Member Development Overview & Scrutiny Committee and they are content for the report to proceed to decision. In addition consultation has taken place with regional and local trades union officers regarding the proposals. Consultation with the Head Teachers and Chairs of Governors of affected schools will be progressed over the forthcoming weeks
3.2 External	

The proposals contained within this report only relate to City Council employees. Broader consultation with affected stakeholders will be undertaken as part of the analysis regarding the impact of expanding the Living Wage to contractors and suppliers of the City Council.

4.1 **Financial Implications.**

The total number of employees currently being paid less than £7.20 an hour is 2545 City Council staff, composed as shown in the table below, and 529 schools staff.

<u>Directorate</u>	<u>Employees</u>
Adults & Communities	119
Children, Young People & Families (DSD)	2081
Children, Young People & Families (other)	90
Corporate Resources	4
Development & Culture	214
Homes & Neighbourhoods	<u>37</u>
Total City Council	2545
Schools employees	<u>529</u>
Overall total	3074

The additional cost of raising each individual's hourly pay to £7.20 is set out in the table below. These costs include pay, National Insurance and superannuation.

	Part-Year Impact 2012/13 £m	Full-Year Impact 2013/14 onwards £m
Schools	0.15	0.21
DSD - charged to schools	0.64	0.85
Other Council employees	0.20	0.27

DSD is the Direct Services Division which provides catering, cleaning and other services to schools on a fully traded basis.

It is proposed that:

- The part year cost of schools' staff in 2012/13 be met from the central element of the Dedicated Schools Grant.
- The part year costs of DSD and other Council employees in 2012/13 be met from the Policy Contingency.
- The full year costs of schools' staff from 2013/14 be the subject of consultation with the Schools Forum in the context of Schools Funding reform
- The full year costs of DSD staff from 2013/14 will be considered in the context of the service business model for future years.
- The full year costs of the other Council employees from 2013/14 be built into the long-term financial plan.
- Any systems costs will be met within existing budgets.

4.2 Legal Implications

To ensure that any potential Equal Pay risks are mitigated it is essential that the principles of the Living Wage (LW) are applied consistently across the Council to all council managed and school managed (non teaching) employees and workers.

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.

There is a potential that the application of the Living Wage to the Council's current pay and grading structure, could have the effect of lifting those on the Living Wage onto the pay rates of grade 2; so that an employee whose job content has been evaluated at grade 1, but as a result of the LW, is in fact 'paid' at a scale point in grade 2.

In addition, there may be circumstances where the LW is increased in a year and the Council is not awarding a pay increase to any employees of the Council in that year.

In either event, on a balance on of probabilities it is likely that the Council will be able to justify the differential treatment compared to other employees, on the basis that the application of the LW is a proportionate means of achieving a legitimate aim.

Governing Bodies in City Council Community Schools should be encouraged to apply the Living Wage in Schools for those non teaching staff so that the minimum wage paid by the School for these staff is at the same minimum level as the Council to ensure that neither the school nor the Council is subject to equal pay litigation.

4.3 Public Sector Equality Duty.

An initial equality analysis has been undertaken to identify whether there is any disparate impact arising from this proposal. This has identified that the proposal benefits the lowest paid employees within the Council who are predominantly female and part time.

5. Relevant Background

- 5.1 The concept of the Living Wage was developed by the Joseph Rowntree Trust and is the term used to describe the minimum hourly wage necessary for shelter (housing and incidentals such as clothing and other basic needs) and nutrition. This standard generally means that a person working full-time with no additional income, should be able to afford a specified quality or quantity of housing, food, utilities, transport, health and recreation.
- 5.2 The Cabinet meeting of 11th June 2012 agreed to apply the Living Wage to all non schools NJC employees with effect from 1st July 2012 and that the quantum of the payment to be reviewed annually with the revised amount taking effect on 1st April each year
- Cabinet referred considerations regarding the required changes to employee terms and conditions to this Committee for decision.
- 5.3 The current rate for the Living Wage of £7.20 is in-between scale points 9 and 10 of Grade 1 of the Council's pay bands. To ensure fairness and to protect the Council from equal pay claims it is important that the Council maintains its current job evaluation scheme and pay structure. To this end all posts evaluated as grade one will continue to be placed in the associated job hierarchy and the appointee will be placed on the appropriate scale point in grade one. If the scale point pays less than the Living Wage the affected employee will then receive an additional enhancement to uplift their pay to this minimum.
- 5.4 In accordance with the recommendations of the national Living Wage Campaign it is proposed that there is no differentiation in payment based on age. Therefore all employees regardless of age will receive no less than the Living Wage hourly rate.
- 5.5 The recommended rate for the Living Wage is calculated annually by the Centre for Research in Social Policy at Loughborough University. This is calculated employing a clear formula that has been used by adopters of the Living Wage since 2001. It is proposed that Birmingham City Council adopts the national living wage rate and that this is implemented with effect from 1st April each year in line with the current practice for other wage rises. To minimise the potential for any equal pay risks arising from the application of the revised annual rate is recommended that each year prior to adoption a legal risk assessment is undertaken. This will assess the robustness of the Council's material factor defence against equal pay claims arising from the implementation of the Living Wage.
- 5.6 Whilst they are not employees it is proposed that in line with the Council's policy intent the Living Wage is the minimum rate that should be paid to casual workers with effect from 1st July 2012. The necessary amendments to managerial guidance and pay systems will be put in place to ensure this is applied consistently across the Council. In addition further work is being undertaken to examine the opportunities and implications arising from applying the Living Wage to agency contracts and a report on this is scheduled to be brought to Cabinet in July 2012.

- 5.7 The proposal is that the Living Wage will apply to all Council employees and this will include school based employees working within Community Schools. As a consequence of the Local Management of Schools the decision regarding employees' terms and conditions rests with the individual schools Governing Body on advice from their Head Teacher/Principal. The Council will therefore consult with each school to secure agreement to implement the proposal by 1st October 2012 and for the payment to be back dated to take effect on 1st July 2012.

6. Evaluation of alternative option(s):

- 6.1 The Council is committed to tackling poverty and worklessness in Birmingham the implementation of the Living Wage makes an important contribution to achieving this goal.
- 6.2 Consideration could have been given to establishing a local minimum wage for the Council. To maintain the validity and efficacy of this would have required an ongoing investment in research and validation to enable an annual calibration of the rate. The rate for the Living Wage is annually review by Loughborough University and the information is provided to Local Authorities at no cost.

7. Reasons for Decision(s):

- 7.1 To ensure that the lowest paid workers in Birmingham City Council receive a minimum level of pay as part of its strategy to tackle poverty and worklessness in Birmingham.

Signatures

Chief Officer(s):

Dated:

List of Background Documents used to compile this Report:

Cabinet Report The Living wage 11th June 2012

List of Appendices accompanying this Report (if any): None