

Public Report
Birmingham City Council
Report to Audit Committee
24 March 2020



Subject: Equal Pay Update – January 2020
Report of: Corporate Director of Finance and Governance and the City Solicitor and Monitoring Officer
Relevant Cabinet Member: N/A
Relevant O &S Chair(s): N/A
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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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input type="checkbox"/> Yes	<input checked="" 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 Appendix 1 is exempt from public disclosure under paragraphs 4 and 5 of Schedule 12A of the Local Government Act 1972.		

1 Executive Summary

- 1.1 The purpose of this report is to provide an update to the Committee as at January 2020 in relation to the ongoing liability of the Council in respect of equal pay claims brought under the Equality Act 2010. Equal pay continues to present a challenge for the Council. It should be noted that significant progress has been made in terms of managing claims and their resolution by way of agreement and settlement.

- 1.2 Exempt Appendix 1 is 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 acting for the claimants.

2 Recommendations

- 2.1 That the Committee note the contents of the Report and Exempt Appendix 1.

3 Background

- 3.1 The Equal Pay Act 1970 (now superseded by the Equality Act 2010) was an under-utilised piece of legislation, with few claims for many years. Following the National Single Status Agreement in 1997, attention was focused on pay structures within Local Authorities and NHS Trusts. ‘No win no fee’ lawyers started issuing claims for equal pay in the late 1990s and brought equal pay into the public arena.
- 3.2 During the last 13 years, there have been significant developments as a result of decided cases, which dramatically changed the scope of the Equal Pay Act and Equality Act, and the ability of local authorities to deal with the resultant litigation.
- 3.3 The Council’s intention has always been to provide a fair salary structure. Indeed, the process of producing and implementing a fair salary structure disclosed the inequalities and inconsistencies of the pay arrangements that existed prior to the implementation of the Council’s pay and grading scheme. Equal pay claims have been issued despite the Council actively pursuing a ‘Single Status’ agenda for its employees. The Council’s pay and grading scheme was intended to prevent any further claims, as all employees were to be fairly and equally remunerated for equal work.
- 3.4 Authority for the settlement of validly pleaded 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.
- 3.5 Since that time, Cabinet has supported the decision of the Chief Executive to make certain pay settlements taken under delegated authority granted by the Cabinet Report 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 Sub-Group 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 Sub-Group.

3.6 Further background information is set out in Exempt Appendix 1.

4 Options considered and Recommended Proposal

4.1 This Report is for noting.

5 Consultation

5.1 The Leader of the Council, Councillor Ian Ward, and the Chief Executive, Dawn Baxendale, are aware of the matters raised in this report.

6 Risk Management

6.1 Please see Exempt Appendix 1.

7 Compliance Issues:

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

7.1.1 This Report is for noting only.

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 equal pay claims.

7.3 Financial Implications

7.3.1 The Council has made provision in its 2019/20 Statement of Accounts for the settlement of, and litigation costs associated with, any outstanding, validly pleaded equal pay claims. The cost of meeting equal pay liabilities will be predominantly funded from capital receipts under the flexibilities granted by Central Government. The provision and adequacy of planned funding are kept under regular review.

7.3.2 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.

7.4 Procurement Implications (if required)

7.4.1 N/A

7.5 Human Resources Implications (if required)

7.5.1 N/A

7.6 Public Sector Equality Duty

7.6.1 All settlement strategies to date have endeavoured to limit any adverse equality impact.

8 Appendices

8.1 Exempt Appendix 1

9 Background Documents

9.1 Reports to Cabinet dated July 2011, July 2014 and 2015, August 2017, February 2018 and December 2018

9.2 Reports to Audit Committee dated September 2012, November 2013, November 2016, January 2018, and, June 2019