

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>AUDIT COMMITTEE</b>	<i>Exempt information paragraph number – if private report:</i>
<b>Report of:</b>	<b>STRATEGIC DIRECTOR FOR FINANCE AND LEGAL SERVICES</b>	
<b>Date of Decision:</b>	<b>22 November 2016</b>	
<b>SUBJECT:</b>	<b>EQUAL PAY UPDATE</b>	
<b>Key Decision:</b> No		
<b>If not in the Forward Plan:</b> (please "X" box)	<b>Chief Executive approved</b> <input type="checkbox"/> <b>O&amp;S Chairman approved</b> <input type="checkbox"/>	
<b>Relevant Cabinet Member(s) or Relevant Executive Member for Local Services:</b>		
<b>Relevant O&amp;S Chairman:</b>		
<b>Wards affected:</b>	<b>ALL</b>	

<b>1. Purpose of report:</b>
<p>1.1 The purpose of this Report is an update to the Audit Committee relating to the on-going liability of the Council in respect of equal pay claims under the Equal Pay Act 1970.</p>

<b>2. Decision(s) recommended:</b>
<p>That the committee:-</p> <p>2.1 note the contents of the Report and to agree that a further update should be made to the Committee at a future meeting.</p>

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### **3. Consultation**

Consultation should include those that have an interest in the decisions recommended

#### **3.1 Internal**

### **4. Compliance Issues:**

#### **4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?**

This report is for noting.

#### **4.2 Financial Implications (Will decisions be carried out within existing finance and Resources?)**

The Council has made provision in its 2015/16 Statement of Accounts for the settlement and litigation costs of any outstanding valid Equal Pay claims. The cost of meeting the equal pay liabilities will be predominantly funded from capital receipts under the flexibilities granted by Central Government. The provision and the adequacy of planned funding are kept under regular review.

The revenue implications of Equal Pay settlements have been reflected in both budget for 2016/17 and in the LTFP and Efficiency Statement 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.

#### **4.3 Legal Implications**

The power conferred by S222 Local Government Act 1972 'Power to prosecute or defend in court in the interest of the public' enables the Council to seek to settle equal pay claims.

#### **4.4 Public Sector Equality Duty (see separate guidance note)**

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

## **5. Relevant background/chronology of key events:**

- 5.1 The Equal Pay Act 1970 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.
- 5.2 During the last ten years there have been significant developments as a result of decided cases which have dramatically changed the scope of the Equal Pay Act and the ability of Local Authorities to deal with the resultant litigation
- 5.3 The Council's intention has always been to produce a gender 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 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 & Grading Scheme has prevented, or should have prevented, any further claims as all employees were to be fairly and equally remunerated for work of equal value.
- 5.4 Equal pay claims broadly fall into two categories:
- (a) Rated as Equivalent (RAE) – prior to Single Status these claimants usually referred to as 'manual' or 'blue collar'; claimants, invariably female, choose a 'manual' male employee as their comparator and the comparators chosen in local government are almost always male employees with the benefit of bonus schemes from which they derive much higher levels of pay than the female claimants. These claimants would almost certainly have succeeded even if the bonus schemes were shown to be genuine productivity schemes; this is because female employees were 'rated as equivalent' under their old conditions of service and therefore entitled to the same rate of pay. However the women were not considered for bonus schemes in the same way as the male manual employees.
- (b) Equal Value (EV) – prior to Single Status these claimants were referred to as 'non-manual' or 'white collar'; claimants, invariably female, choose a 'manual' male employee as their comparator - non-manual v manual. This was allowed by the Court of Appeal and opens up the possibility of a large number of further equal pay claims using the same bonus earners as the 'comparator'.
- 5.5 On 25th 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.
- 5.6 Since that time Cabinet has supported the decision of the Chief Executive to make certain equal pay settlements taken under delegated authority granted by a report of Cabinet on 25 July 2011. Following Cabinet report in July 2014 the Cabinet Equal Pay Sub –Group was set up comprising of the Leader, Deputy Leader and Chief Executive. The Chief Executive has continued to authorise certain equal pay settlements in line with the strategy approved by Cabinet and Cabinet Equal Pay Sub-group.
- 5.7 Further background information is set out in a Private briefing

**6. Evaluation of alternative option(s):**

This report is for noting only.

**7. Reasons for Decision(s):**

This report is for noting only.

**Signatures****Date**

Cabinet Member or Executive  
Member for Local Services or  
Ward Committee Chairman .....

Chief Officer .....

**List of Background Documents used to compile this Report:**

Cabinet reports July 2014 and 2015

**List of Appendices accompanying this Report (if any): none**

<b>Report Version</b>	<b><u>V2</u></b>	<b>Dated</b>	<b><u>08 November 2016</u></b>
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