

# **Committee: Cabinet**

**Date: 1 July 2013**

Agenda item: 12

**Subject:** London Living Wage

Lead officer: Caroline Holland Director of Resources

Lead member: Cllr Mark Allison

Forward plan reference number: 1283

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## **Urgent report:**

Reason for urgency: The chair has approved the submission of this report as a matter of urgency in order that consideration is given to implementation of the LLW scheme at the earliest opportunity.

## **Recommendation:**

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That Cabinet consider and endorse the decision by the Head of Paid Service to introduce a minimum earnings guarantee for directly employed and agency staff based upon the London Living Wage.

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### **1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

1.1 This report considers the implications and costs of adopting the LLW for staff and agency staff. The issues around adopting the LLW for external contracts are also considered.

### **2. DETAILS**

2.1 The current London Living Wage rate is £8.55 per hour without differentiation for Inner or Outer London. It is a voluntary scheme, the rate being set by the Mayor of London each November with participating organisations having 6 months from announcement to implement the rate.

2.2 The living wage is not related to the National Minimum Wage (currently £6.19 per hour for those over age 21), which is statutory and set annually by central government.

2.3 A recent analysis by London Councils suggests 15 local authorities had either implemented the Living Wage or were in the process of implementing it and a further four already met it in terms of pay rates. 11 local authorities had either decided not to adopt the LLW, or had no plans to consider it.

#### Employees

2.4 The, non mandatory National Living Wage is currently £7.45 per hour.

This is calculated by the Centre for Research in Social Policy at Loughborough University and no Merton employees are paid below that level.

- 2.5 Merton's lowest rate of pay (GLPC spine point 4) is £8.08 per hour. In total, 16 employees earn less than £8.55 per hour. Of these, 6 employees work in schools. The low number of employees below the LLW hourly rate at Merton is due to the operation of a 35 hour week and a 52 week annual pay divisor, accompanied by a Single Status grade structure which has resulted in few employees being on the lowest grade. Many other boroughs operate a 36 hour week and 52.142 week annual pay divisor, resulting in a lower hourly rate for the same GLPC spine point.
- 2.6 The increase in budget required to implement the LLW for direct Employees of the London Borough of Merton is estimated to be less than £10,000 per annum. This cost is low, in part, because Merton is already offering relatively good wage packages for lower paid staff.

#### Agency Workers

- 2.7 Although the cost of implementing the LLW for directly employed staff is low, there would be a knock-on effect because the Agency Workers Regulations require us to pay qualifying agency workers at the same rate as our direct employees once they have completed 12 weeks in a placement. It is estimated that this cost would be circa £4k pa.
- 2.8 If adopting the LLW for Employees, the Council could also consider the option of paying the LLW to all agency workers from the outset of their placement, rather than after 12 weeks. It is estimated this would cost circa £41k pa. Some sensitivity analysis has been carried out suggesting that the cost for agency staff would be between £32k and £65k pa.
- 2.9 It should be noted that the increased costs of agency staff would put pressure on existing budgets to contain them but not necessarily lead to a budget increase.
- 2.10 LLW carries some risks. Annual percentage increases in the LLW have consistently exceeded any local government pay award and over time if that trend continues increasing numbers of employees would come within the scope of any minimum earnings guarantee based on the living wage. In adopting the LLW the Council will be at risk of additional cost pressures resulting from decisions made by the Mayor of London on future LLW increases, and will not have any control over those decisions. It is therefore recommended should a decision be made that the Council considers there are sufficient funds available, that a low pay guarantee based on the LLW is reviewed in November each year following the Mayor's announcement of the LLW rate, for implementation in the following April (there are cost control implications if the Council is tied to the Mayor of London's determination of the LLW).

- 2.11 It should be noted that the analysis is based upon current pay levels and does not take account of the impact of any potential pay award for 2013/14.

#### Contractors' staff

- 2.12 The Living Wage Foundation operates an accreditation scheme for organisations who have adopted the Living Wage. Accredited organisations are also expected to require their contractors to have adopted the London Living Wage.
- 2.13 It is not possible to accurately cost the adoption of London Living Wage as a requirement for all contractors, but estimates prepared by other London authorities suggest increased costs through adoption of the LLW of over £1m with one quoting £8m, with significant increases in cost for externalised services such as cleaning and school meals. The impact on Merton cannot easily be quantified as many of the services externalised elsewhere are still in house in Merton, with staff already paid above the LLW.
- 2.14 Some authorities have chosen to re-negotiate existing contracts so that their contractors all meet the LLW, while others have adopted the LLW for new contracts or on a case-by-case basis. There is no guarantee that existing contracts could be renegotiated to ensure all contractors meet the LLW. Requiring existing and/or new contractors to meet the LLW could increase the cost of outsourced services.
- 2.15 It would not be possible to apply the LLW to many outsourced contracts, such as Residential Homes where the service is provided to several authorities unless they all agreed to implement it.
- 2.16 At this stage there is not adequate financial information to make a decision on whether to extend the LLW to contracts. Should members wish to review the options around the LLW and contracts then a piece of work could be undertaken by the Corporate Contracts team.

### **3. ALTERNATIVE OPTIONS**

- 3.1 There is no statutory requirement to adopt the LLW, and the rate the Mayor of London sets each year is not binding. The current position where the LLW has not been formally adopted could continue, however the Council could face social and political pressures if it did not adopt the LLW.

### **4. CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1 No consultation with Staff Side has taken place to date. However it is well known that staff representative organisations and trades unions support the introduction of LLW. For example locally, the newly appointed GMB regional organiser has made it clear that the LLW is something that union will actively lobby for.

- 4.2 There is no requirement to formally consult staff side on any decision to adopt, or not to adopt the LLW.
- 4.3 Any decision to adopt the LLW will need to be endorsed by Cabinet, and incorporated into the annual pay policy statement which will be reviewed by Council in early 2014

## **5 TIMETABLE**

- 5.1 If a decision is taken to adopt the LLW, there is some discretion regarding the effective date. Whilst the rates are set each November by the Mayor of London, accredited organisations have 6 months in which to implement the rates. It would be sensible to implement the LLW and any changes of rates from 1 April each year following the announcement of the new rates in the preceding November.
- 5.2 Should Cabinet endorse the introduction of LLW for in-house employees, it would be sensible for its adoption to be backdated to 1 April in order to ensure it covers a full financial year, and can be effectively monitored.
- 5.3 Should Cabinet endorse the introduction of LLW for all Agency workers, it would need to be backdated in a similar manner for agency staff with over 12 weeks service. For simplicity it would be sensible for this date to be used for all agency staff to which it applied.

## **6. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1 Included in the report.

## **7. LEGAL AND STATUTORY IMPLICATIONS**

- 7.1 There is no statutory or other legal obligation to adopt the LLW.
- 7.2 If the Council opts to adopt the LLW for employees, the Council would, under the Agency Workers Regulations 2010, be obliged to pay the LLW to qualifying agency workers who have worked continuously for the Council in the same role for 12 calendar weeks. The Regulations provide that, after the 12 week qualifying period, a qualifying agency worker is entitled to the same basic working and employment conditions, including pay, as he or she would have been entitled to for doing the same job had they been recruited directly by the Council.
- 7.3 If the Council opts to pursue the option of requiring the Council's external contractors to operate the LLW as a minimum earning threshold the adoption of this policy would have significant procurement and legal implications and as such further advice and consultation would need to be undertaken before adopting this policy.

## **8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1 The living wage is championed as a measure which assists the lowest earners and those below the poverty threshold. Proponents of the living wage argue that the LLW can reduce dependency on benefits for low paid employees and also bring advantages to the local economy.

**9 CRIME AND DISORDER IMPLICATIONS**

- 9.1 None

**10. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1 There is also the risk of equal pay claims if there is not full roll out across London if applied to contracts and internally if pay rates are increased without then looking at the further implications of staff on the higher graded jobs whose money remains the same.

**11. APPENDICES - None**

**12. BACKGROUND PAPERS**

Living Wage Foundation website: <http://www.livingwage.org.uk/our-work>  
The Mayor of London's 2012 report on the London Living Wage:  
<http://www.london.gov.uk/sites/default/files/living-wage-2012.pdf>