

Report – Establishment Committee

Draft Pay Policy Statement 2020/21

To be presented on Thursday, 5th March 2020

*To the Right Honourable The Lord Mayor, Aldermen and Commons
of the City of London in Common Council assembled.*

SUMMARY

The Localism Act 2011 requires the City of London Corporation to prepare and publish a Pay Policy Statement setting out its approach to pay for the most senior and junior members of staff. This must be agreed each year by the full Court of Common Council.

The Statement has now been updated for 2020/21 and has been considered and approved by your Establishment and Policy and Resources Committees. It is now recommended to the Court for approval.

RECOMMENDATION

It is recommended that the Court considers and agrees the draft Pay Policy Statement for 2020/21 as set out in the Appendix to this report to ensure that the City Corporation meets its requirements under the Localism Act 2011.

MAIN REPORT

Background

1. The requirement for local authorities to produce Pay Policy Statements was introduced under the section 38(1) of the Localism Act 2011 (the Act). This stated that “A *relevant authority must prepare a pay policy statement for the financial year 2012-2013 and each subsequent financial year*”. In the City Corporation’s case, it is a “*relevant authority*” only in its capacity as a local authority. However, and in general, the City has not tried to distinguish in its Pay Policy Statements its local-authority capacities from any of its other undertakings, other than where these are specifically excluded from the remit of the 2011 Act.
2. The aim of the Act is that authorities should be open, transparent and accountable to local taxpayers. Pay Policy Statements should set out the authority’s approach to issues relating to the pay of its workforce, and in particular to the pay of its “Chief Officers” and the pay of its lowest paid employees.
3. Section 38 of the Act goes on to outline certain features which must be included within Pay Policy Statements.
 - Section 38(2) says that the Statements must set out the authority’s policies for the financial year relating to the remuneration of its chief officers, the remuneration of its lowest-paid employees and the relationship between the remuneration of its chief officers and the remuneration of any other employees.

- Section 38(3) says that the Statements must state the definition of “lowest-paid” employee adopted by the authority and its reasons for adopting that definition.
 - Section 38(4) says that the Statements must include the authority’s policies relating to the level and elements of remuneration for each chief officer, remuneration of chief officers on recruitment, increases and additions to remuneration for each chief officer, the use of performance-related pay and bonuses for chief officers, the approach to the payment of chief officers when they cease to be employed and the publication of and access to information relating to chief officers’ remuneration.
4. Section 38(5) is less prescriptive, but allows authorities to set out in their Statements their policies for the financial year relating to other terms and conditions applying to chief officers.
 5. The definition of “Chief Officers” given in the Localism Act (under section 43(2)) is that of the Local Government and Housing Act 1989, and incorporates the latter Act’s definitions of both “Chief Officers” and “Deputy Chief Officers”. This is a much wider definition than the conventional definition of “Chief Officer” used in the City Corporation (generally denoting a head of department) and also wider than that which governs posts included in our Senior Management Group.
 6. Under the Local Government and Housing Act, a “Chief Officer” is:
 - the authority’s head of the paid service (the Town Clerk & Chief Executive, in the City Corporation’s case),
 - any person who in general answers directly to the head of the paid service, and
 - any person (irrespective of whether they report directly to the head of the paid service) who in general is required to report directly to the authority itself or to any Committee or sub-Committee of the authority.

A “Deputy Chief Officer” under the Act is anyone who reports directly to any person defined as a Chief Officer.

7. The only employees who could be caught by any of these definitions who are excluded from them under the 1989 Act are those employees engaged principally in clerical or secretarial support, or who are responsible for other support services.
8. The 1989 Act divides “Chief Officers” between what are called “statutory Chief Officers” and “non-statutory Chief Officers”. However, this distinction is irrelevant for the Pay Policy Statement provisions of the Localism Act 2011.
9. The 1989 Act applies to the City only in its capacities as a local authority, police authority and port health authority. However, in keeping with the commitment to wider transparency in our Pay Policy Statements, the basic definitions of “Chief Officer” and “Deputy Chief Officer” given in the 1989 Act have been applied in our Pay Policy Statements to all relevant employees of the City Corporation,

irrespective of the capacity or capacities they work under, other than where their duties are specifically excluded from the provisions of the Localism Act.

10. Section 41 of the Localism Act makes further provision relating to the remuneration of “Chief Officers”, which is that any determination made by the authority related to the remuneration or other terms and conditions applying to a Chief Officer of the authority within the financial year to which the Pay Policy Statement relates must comply with its Pay Policy Statement for that year.
11. The Localism Act makes supplementary provisions relating to Pay Policy Statements in its section 39. This says that the authority’s Pay Policy Statement must be approved by a resolution of the authority by the 31 March before the financial year to which it relates, that the Statement may (again by resolution of the authority) be subsequently amended after the beginning of the financial year, and that, as soon as is reasonably practicable after its approval or amendment, the Statement must be published on the authority’s website.
12. The Department for Communities and Local Government publishes Guidance to the relevant parts of the Localism Act and a Code of Recommended Practice for Local Authorities on Data Transparency which is also of relevance in complying with the Act. Such Guidance has statutory effect under section 40 of the Act, and a relevant authority in performing any of its functions under sections 38 and 39 of the Act must have regard to the instructions of the Guidance.
13. The main Guidance (“*Openness and Accountability in Local Pay: Guidance under section 40 of the Localism Act*”) was published in February 2012. It sets out a number of key policy principles, i.e.
 - The need to increase transparency in how taxpayers’ money is used in local authorities, particularly in the pay and reward of staff
 - The promotion of pay fairness by tackling disparities between the lowest and highest paid
 - The increase of accountability in pay decisions made by authorities.

The general notion is that “*the Act’s provisions will ensure that communities have access to the information they need to determine whether remuneration, particularly senior remuneration, is appropriate and commensurate with responsibility. In addition, the provisions will ensure that policies on the pay and reward of the most senior staff are set out clearly within the context of the pay of the wider workforce*”.

14. The 2012 Guidance in general reiterates the main provisions of the 2011 Act or makes suggestions about how these should be interpreted, but it also makes several prescriptive points for matters which it would be desirable for authorities to include within their Pay Policy Statements or otherwise within their pay policies or governance arrangements. These include:
 - the non-applicability of the Localism Act to the staff of local authority schools (including teachers)

- the opportunity for a full-council vote for new salary packages in excess of £100,000 per annum;
 - the publication of pay multiples, in particular between the highest-paid employee and median pay levels;
 - the payment or otherwise of separate fees for election duties for Chief Officers;
 - description of whether any payments to senior staff have to be earned each year or are all consolidated payments;
 - compliance in the award of severance pay to Chief Officers with the authority's published policies on discretionary payments in such circumstances;
 - circumstances in which pension payments can be made to employees still in local-authority work
 - policy on pay packages for senior appointments that limits the possibility of tax avoidance.
15. The government introduced Supplementary Guidance to the 2012 Guidance in February 2013. This in general served as a reminder for authorities of their existing duties in relation to their Pay Policy Statements, without giving further explicit instructions to them about additional requirements. However, it stated that authorities should present their Pay Policy Statements in a clear and accessible format, keeping jargon to a minimum and explaining any acronyms used, and that they should set out in their Statements clearly and separately their policies against each of the requirements of the Localism Act. The Supplementary Guidance also advised authorities that if they conclude that any particular parts of the existing Guidance do not apply to them then they explain this clearly in their Statements.

Current Position - City of London Pay Policy Statement 2020/21

16. Attached to this report is an updated draft Pay Policy Statement for 2020/21. This is required to be put before the Establishment and Policy & Resources Committees before being put to the full Court of Common Council. It was presented to Senior Remuneration Sub Committee (SRSC) on 5th December to provide Members with the template that the City uses in its Pay Policy Statements in order to explain why it is structured as it is and contains what it does, against the legislative framework under which the Statements are made.
17. At the 5 December meeting, members of the SRSC expressed views about the format and content of the Pay Policy Statement. They accepted that this was driven by legislation but asked that it be reviewed for the 2021/22 Statement. In the meantime, the Statement for 2020/21 retains its existing format.
18. Paragraphs 1-4 of the Statement provide a general introduction. They explain the general duty under section 38(1) of the 2011 Act to provide a Statement, and the basic principles which the Government Guidance suggests that Statements should embrace. They explain further how the legislation affects the City Corporation, and the general decision to follow the spirit of the legislation across

wider areas of the City's functions, other than certain areas (Police Officers and Schoolteachers) which the legislation or Guidance specifically exclude.

19. Paragraphs 5-7 and 8-14 provide a general overview of the City's pay policies, its Grading structure and other payment mechanisms. These put in context later parts of the Statement. The required definition of lowest-paid staff is provided at paragraph 13.
20. Paragraphs 15 and 16 explain payments made to Graded staff, following the descriptions of the pay rates for the Grade and number of employees in them given in paragraphs 5 and 6. This is of relevance to the requirement to explain the remuneration of "Chief Officers" (many of whom by the Local Government & Housing Act definition used in the 2011 Act are paid on the A-J Grades) and to the requirement to provide pay multiples, in particular the relationship of the pay of the highest-paid member of staff with the median employee in pay terms.
21. Paragraphs 17-25 explain payments made to employees on the Senior Management Grade. This is further relevant to explaining the organisation's remuneration policies in relation to "Chief Officers", as these are different for "SMG" "Chief Officers" and "A-J" "Chief Officers". This affects the requirements under sections 38(4) and 41 of the Act and some of the provisions relating to "Chief Officer" pay in the 2012 Government Guidance.
22. Paragraphs 26-31 then bring the preceding sections together to provide full details of our remuneration regime as it might affect all "Chief Officers" and "Deputy Chief Officers" as the Act would define them. Paragraph 31 also provides the pay multiples and general explanation of relationships required by section 38(2) of the Act and the 2012 Government Guidance to it.
23. Paragraphs 32-40 then give details on specific matters which the Government guidance requires to be set out in the Statement. Each subject area is clearly indicated.
24. Paragraphs 41-44 provide brief concluding statements in relation to the legislation.

Conclusion

25. To meet the requirements of the Localism Act, the City Corporation must agree and publish a Pay Policy Statement before each financial year. This report sets out why the City's Statement is set out in the way it is and contains the information it does.

All of which we submit to the judgement of this Honourable Court.

DATED this 30th day of January 2020.

SIGNED on behalf of the Committee.

Deputy Charles Edward Lord, OBE JP
Chair, Establishment Committee