	
Cabinet	4 December 2012
Report of the Cabinet Member for Corporate Services	

Implementing the Living Wage

Summary

1. During Living Wage Week in November 2012 and in conjunction with the publication of the Fairness Commission Report 'A Better York for Everyone', the City of York Council reaffirmed its commitment to implement the Living Wage (LW) for all council staff earning below the national Living Wage of £7.45. This built on its commitment made in February 2012 in response to the Fairness Commission's initial report, to further explore the implications of the Living Wage and plan for its implementation in 2013/14.
2. Cabinet members are asked to agree recommendations for implementing the Living Wage for employees with council contracts from 1st April 2013 with a further phase of activity promoting the Living Wage with all suppliers and partners during 2013/14.

Background

3. The Living Wage Campaign in the UK was launched by London Citizens in 2001 and calls for every worker in the country to earn enough to provide their family with the essentials of life. Following a series of successful campaigns, various interested parties joined together and formed the Living Wage Foundation in 2011. The Foundation is now the lead body and provides accreditation, advice and support to potential, and to 93 accredited, Living Wage Employers.
4. The new Living Wage rate (outside of London) was announced in York by the Chief Executive of the Joseph Rowntree

Foundation on 5th November 2012 as part of the 'Living Wage Week'. The new rate sees an increase of 25p per hour taking it to £7.45. The rate is set by the Centre for Research in Social Policy (CRSP), at Loughborough University and the research is funded by Joseph Rowntree Foundation. It is set at a level that allows people to achieve a minimum socially acceptable standard of living when applied alongside full take-up of in-work benefits.

5. Local authorities outside London who have implemented include: Preston, Newcastle, Birmingham, Bristol, Oxford, Caerphilly, Cardiff, Swansea and Hyndburn. Others who are committed to or considering it include: Sheffield, Manchester, Liverpool, Dundee, Blackpool, Calderdale and Bradford.
6. The events during Living Wage week in York saw a positive response from employers with York Hospital, Nestle UK , York CAB, Leeds and York Foundation NHS, York College, York University, York Mind, Our Celebration and the Fire, Police and Probation Services all committing to the Fairness Principles set out by the Fairness Commission. This adds to the employers already committed to the Living wage who include Aviva, (one of the key partners of the Living Wage Foundation), the Joseph Rowntree Foundation, who fund the research into the Living Wage rate, York St John and York CVS.
7. There is now a body of research which identifies benefits of a Living Wage not only for the individual but also employers and society in general. Research undertaken by two of the Foundations key partners, the Greater London Authority and Queen Mary University London identified a number of benefits for employers. In addition to the reputational benefits of being an ethical employer, the most significant impacts found from this and other research were:
 - *An improvement in the quality of work*
 - *Reduction in absenteeism*
 - *Easier recruitment and retention*
 - *Consumer awareness and reputation*
 - *Reduction in turnover of contractors*
 - *Improved morale motivation and commitment*

8. The benefits of a Living Wage were also identified by the York Fairness Commission. The Commission's Interim Report in November 2011 suggested exploring the implications of adopting a Living Wage. This was subsequently reinforced in the final report published in September 2012 with the headline recommendation to "Make York a Living Wage City and Yorkshire a Living Wage Region".
9. The Fairness Commission recommends widespread adoption of the Living Wage as a means of tackling in-work poverty and as a step towards reducing income inequality which will deliver benefits to the whole community. Their report concluded: "We have debated the living wage concept, notably with local businesses, in our consultation. The case for its payment is becoming increasingly strong and supported".
10. KPMG's 'Current Trends in Household Finances and Structural Analysis of Hourly Wages' report, October 2012, identified some of the difficulties associated with earning below the Living Wage. It stated "one in five workers across the UK earn less than the Living Wage" and that compared to those earning more they are especially down beat about: "Current household finances, Savings, Cash availability, Workplace activity, Appetite for major purchases, Ease of access to unsecured credit".

Who does this affect?

11. There are 573 employees who fall into the Living Wage group (under £7.45 per hour). This equates to 17% of the workforce (excluding teachers and casuals). The majority of these, 95%, fall into the Local Government Services Employees (LGS) bargaining group. Their pay and conditions are set in the main through the Collective Agreement Regarding Single Status and Pay & Grading for Local Government Services Employees (LGS) implemented in 2008.
12. There are a small number of employees from other bargaining groups whose pay and conditions are set by other National Agreements. The most significant of these is the National Joint Council for Workshops for Blind which has 30 employees located at Yorkcraft. There are no other employees, other than these, employed under these terms.

13. LGS employees have their pay set by a grading structure consisting of 12 grades. The rates of pay for Grade 1 and 2 are shown below:

Grade	Level	Hourly rate	Annual salary
GRD1	1	£6.3134*	£12,180
GRD1	2	£6.4362	£12,417
GRD1	3	£6.5590	£12,654
GRD1	4	£6.6818	£12,891
GRD2	1	£6.7081	£12,942
GRD2	2	£6.9621	£13,432
GRD2	3	£7.2161	£13,922
GRD2	4	£7.4527	£14,378

*As the LGS grading structure is based on annual salaries, working back to an hourly rate necessitates these being expressed to four decimal places

14. The employees in the other bargaining group affected are on spot salaries.

15. There have been no pay increases in the council for 3 years therefore rates of pay have been eroded in comparison to both the Living Wage and the National Minimum Wage (NMW). Comparing the minimum rate for Grade 1 to the NMW before the pay freeze shows that this has been eroded by nearly 7%.

16. Approximately 21 job types fall into the Living Wage category. Of these there are two job roles, Cleaners and Mid-day Supervisors (MSAs) that cover the vast majority of employees as shown below:

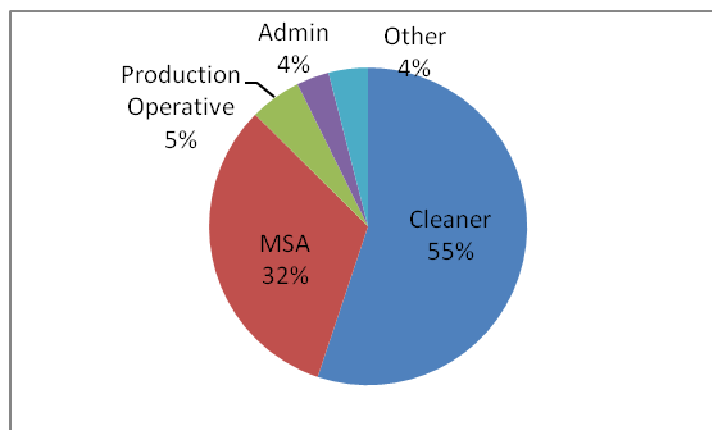


Fig 1. Distribution of job types

17. Virtually all jobs in Grade 1 are Cleaners (with the exception of 1 Housekeeper). This amounts to 55% of the Living Wage group.
18. The second largest group of MSAs have a particular characteristic uncommon to other job groups. Employees in these roles supervise children during school breaks and as such work very few hours, the range is from 1 ¼ to 8 ¾ hours per week, and a significant number, around 43% hold additional jobs.
19. The gender split within the Living Wage group is 75% female 25% male and 92% of the group work part time. Nearly half are aged between 40 and 55 with only very small percentages, (5% & 6%) at either end of the age spectrum. Data on ethnicity and disability is not available for all the records but based on approximately 400 records, 6% are from a black and minority ethnic background and 7% have declared a disability.
20. From a socio-economic perspective, of the staff members who live in York 31% live in Westfield, Heworth and Clifton which are also the top three wards in York for levels of income deprivation and child poverty levels (2010 data).
21. There are currently 56 apprentices in post within the council. Apprentices are not taken into account as part of an organisation's commitment to the Living Wage by the Living Wage Foundation. The council currently pays the national minimum wage for apprenticeships which is £2.65 per hour.
22. Casual workers are also an excluded group from the Living Wage definition, however the council's current practice is to pay casual workers on the LGS pay scales.
23. Payment of the Living Wage in relation to procured services and workers is contained within the council's Procurement Strategy which states "We will work towards the adoption of an approach for addressing low pay, for example, a living wage in all services contracts. This is a journey and we will need to work with suppliers to develop their business models in order to comply with this ambition".

Consultation

24. Initial discussions have taken place with trade unions on the proposals in this report. Whilst broadly welcoming the proposal to implement a Living Wage and wishing to be involved in the development of a scheme, they would be seeking to secure permanent change to job design or pay and grading arrangements for staff in preference to a permanent discretionary supplement.
25. This is likely to result in lengthier processes taking the work into 2014. Subject to the approach agreed, there may be a need for changes to existing policy covered by collective agreements, and if so this would require negotiation of such change.

Options

26. The only option under consideration is to implement a Living Wage for employees with council contracts building on the commitment already given to becoming a Living Wage Employer. This option will include working closely with the trade unions to develop an approach which minimises any impact on the council's pay and grading structure.
27. For schools other than voluntary aided schools and academies the local authority continues to retain a legal responsibility for staff contracts of employment, however the appointment, management and funding of school based staff is a key responsibility of the Governing Body of each school, and government policy is to promote the autonomy of individual schools. The York Education Partnership (a representative body of schools across the city) will consider the living wage at its next meeting in December. Most staff earning below the Living Wage in schools work on a part-time basis as cleaners, catering assistants and midday supervisors.
28. Recommendations do not address the question of whether the council will effectively 'sign up for accreditation' to the Living Wage, but this is something Cabinet members may wish to consider. Signing up or not could impact on the future commitment to uplifting pay in line with increases to the Living Wage as covered in the Analysis and Risk sections below. There is also a small cost (£400) for formal accreditation.

Analysis

29. Introducing a Living Wage for employees is complex with the potential impact on pay policy, practices and levels of pay. The LGS pay structure was collectively agreed in 2008 during single status negotiations. Much work and time has gone into establishing robust policy and practice that ensures fair pay treatment of all employees across the full 12 grade structure. A Living Wage Policy, depending on the approach developed could therefore impact on:

- i. The design of the jobs - requiring duties to be redesigned to secure a higher rate of pay above the Living Wage;
- ii. The grading structure – removing or changing grades to lift people above the Living Wage will affect the integrity of the grading structure and require renegotiation of collective agreement;
- iii. The levels of pay – lifting all the whole 12 grade structure sufficiently high enough to lift Grades 1 and 2 above the living wage would be prohibitively expensive for the council to implement.

30. Changes to any of these elements will have varying degrees of complexity and impact, any change to the grading structure for example would be a major decision and could carry legal risk, opening the continued practice of fair pay and grading into question and potential challenge.

31. In order to preserve the integrity of the pay structure whilst jobs are redesigned and/or the grading structure is being reviewed, it is proposed that, initially, a separate discretionary supplement is paid as an addition to basic pay to achieve the Living Wage of £7.45 per hour. This is similar to how other employers have approached the issue. It is also similar to the way that the council can pay Market Supplements.

32. On the balance of probabilities, it is likely that the council will be able to justify the difference in treatment compared to other employees in that the application of the Living Wage is a proportionate means of achieving a legitimate aim.

Ongoing Pay Implications of a Living Wage

33. Adopting a Living Wage Policy commits the council to an ongoing uplift of salaries in line with any changes to the

national rate (if agreed). It should be noted that the determination of the Living Wage rate is based on a variety of factors and criteria which is significantly different to how annual pay awards for local government are determined, therefore there is potential for these two pay elements to change and increase at very different rates

34. Annual pay increases at the council are linked to the nationally negotiated pay awards, most of which are effective annually in April. The awards are negotiated by the Local Government Employers Organisation on behalf of local authorities and have their interests at heart. Changes to the Living Wage rate will be determined by the Centre for Research in Social Policy with no input or influence from the Employers Organisation or individual authorities. In reality this means the council would be handing over some of its pay decisions to a third party over which it would have no input or influence. Consideration therefore could be given to reviewing the Living Wage Policy on an annual basis as part of the annual budget process.

Implications for staff receiving Benefits

35. Significant changes are being made to the benefits and tax credits system now and over the next few years due to the Welfare Reform Act 2012. These changes are expected to impact on our lowest paid employees and implementing a Living Wage Policy may lift some staff out of reliance on benefits and cushion the impacts of any benefits cuts for others.
36. In introducing the Living Wage, some staff may experience difficulty in organising their financial arrangements and we would offer benefits advice and support for those staff members.

Developments for Apprentices

37. Apprentices are not required to be included in a Living Wage Policy by the Living Wage Foundation. However, as part of work on the strategy for apprenticeships going forward the level of pay for apprentices will be reviewed, with an aim for new proposals to be implemented by 1st April 2013.
38. The council is developing a policy which will look towards offering lower level roles (potentially Grade 1 and 2, subject to suitability) being offered in the first instance as an

apprenticeship. This would increase the number of apprentices securing a permanent job in the longer term. Funding would come from departmental staffing budgets as these opportunities would be subject to a permanent vacancy arising. North Yorkshire County Council and Manchester City Council have implemented similar approaches successfully.

39. Further consideration and consultation work is required before an actual pay level can be recommended therefore Cabinet members are asked to note in the work ongoing to develop enhanced 'a living wage for apprentices'. A solution for supernumerary apprentices currently not attached to a role will need to be sought as part of this work.

Casual Workers

40. As with apprentices casual workers are not required to be included in the Living Wage but the council could decide to include them in its Policy.
41. Including casual workers would increase the financial impact of the Policy, excluding them would change the current practice of paying these workers at the same rate as employees. The effect on hourly rates of pay, should casuals be included, would be an increase of £1.14 per hour for Grade 1 work and 74 pence per hour for Grade 2.
42. These staff would ultimately benefit from any job redesign or grading structure changes.

Corporate Priorities

43. The adoption of a Living Wage Policy will support the council's priorities of:
- Creating jobs and growing the economy
 - Building strong communities
 - Protecting vulnerable people

Implications

44.

a) Financial

- i) The total cost to the council of paying a 'living wage' of £7.45 per hour is likely to be between a minimum of £338k based on a continued pay freeze and £309k with an estimated 1% pay increase at April 2013. This includes the impact on allowances and on costs (National Insurance & pensions).
- ii) These figures have been calculated as at the time of writing, and as such reflect a snapshot position. There will most likely be variations to the final cost of the scheme should it be implemented due to turnover and changes in the composition of the workforce. Where people leave and are replaced by new starters at the bottom of the grade, the costs of the scheme would increase accordingly.
- iii) There would be no known additional costs to implement the recommendations around apprentices.
- iv) Any additional costs of applying the Living Wage to casual staff would be borne by service budgets and could impact on income targets for the staffing pool, if services consequences withdrew their use of casual employees. There are also significant legal risks as identified below.
- v) There is no currently budget provision to fund a Living Wage in 2013/14, but given that paying the Living Wage could provide an economic stimulus in relation to spend in less affluent areas of York and therefore can contribute significantly to the city's financial inclusion and economic prosperity agendas, a bid to the Economic Infrastructure Fund could be made for one year.
- vi) Provision can be found for 2014/15 but it will reduce available growth for other areas.

b) Human Resources (HR)

- i) The human resources implications are mainly contained in the body of the report. It should be noted that the analysis in this report is based on assessment of basic pay only.
- ii) The amendments required to the payroll system may impact on iTrent project implementation timescales.

c) Equalities

Whilst some analysis of the composition of the workforce within the Living Wage group has been carried out and referenced earlier in this report, a Communities of Identity

Assessment would be required as part of the further work on adopting a Living Wage Policy.

d) Legal

- i) Paying a supplement will minimise any risks associated with changing the grading structure and any equal pay risks associated with paying a staff group differently can be mitigated by choosing a mechanism that is transparent and based on a legitimate aim. This risk will be mitigated with the supplement being available to all who could be eligible under the scheme.
- ii) Further development of the Living Wage scheme will take into account the following:
 - (1) the council's job evaluation scheme (JES) has resulted in a robust and transparent pay and grading system and remains an important protection against equal pay claims. The main purpose of the JES was to establish a fair and rational basis for organising pay differentials across a range of council jobs, based on thorough analytical evaluation and impartial application. Anything that can be interpreted as undermining the JES and/or makes it otherwise unreliable, could greatly affect the council's defence against equal pay claims. Payment of a Living Wage could affect some pay differentials and so this is where the main risk will lie and the council will ensure that it manages this in the development of the final scheme.
 - (2) Casual workers are not employees of the council and it has always been important to maintain a clear distinction between the two. Individuals who are employees enjoy the highest level of legal protection (e.g. continuity of employment, right not to be unfairly dismissed, entitlement to a statutory redundancy payment), whereas casual workers do not. Paying a living wage to casual workers is likely to narrow this important distinction (i.e. casual workers being given the same rights to a living wage as Council employees) and allow them to argue 'employee status' and thereby additional employment rights that they would not otherwise enjoy. Proposals for 2014/15 outlined in the body of the report may address this issue.

e) **Crime and Disorder**

There are no implications for crime and disorder

f) **Information Technology (IT)**

There are no implications for IT

g) **Property**

There are no implications for property

h) **Other**

Other implications are covered in the body of the report.

Risk Management

45. The legal risks of damaging the integrity of the pay and grading arrangements will be managed through the development of an approach that minimises any such risk.

46. The financial risks of affordability of keeping pace with the Living Wage rate will be managed through the annual budget process and if possible by building flexibility into the policy to give the council discretion to freeze or withhold increases.

Recommendations

47. Cabinet members are asked to agree the following for implementing a Living Wage for staff employed within the council:

a. To adopt an approach for paying a Living Wage for employees with council contracts (excluding apprentices and casual staff), based initially on a discretionary supplement, commencing from 1st April 2013.

b. The draw-down of £338k from the Economic Infrastructure Fund to support the Living Wage proposals in the first year for staff with council contracts, including helping schools work towards implementing the Living Wage.

c. To develop plans and actions which seek to embed the Living Wage in job design and pay structures by April 2014.

- d. To agree, as part of the budget process each year, to review the uplift the Living Wage rate annually where possible, informed by information available from national pay negotiations.
- e. To agree ongoing work on the apprentices scheme to establish a Living Wage for apprentices and eventual employment at grades above the Living Wage.
- f. To embed the Living Wage in procurement activity by April 2014.

Reason: To deliver a commitment to address low pay for council employees, tackle in-work poverty and as a step towards reducing income inequality which, with the support of other employers in York, will deliver benefits to the whole community.

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Wards Affected: All				All	

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Background Papers:

Living Wage Research for KPMG 'Current Trends in Household Finances and Structural Analysis of Hourly Wages' report, October 2012.

A Better York For Everyone: Report and Recommendations. York Fairness Commission

Living Wage. A Guide for Employers. Living Wage Foundation.

A Minimum Income Standard for the UK in 2012; Abigail Davis, Donald Hirsch, Noel Smith, Jacqueline Beckhelling and Matt Padley; Joseph Rowntree Foundation; 10 July 2012

What price a living wage? Understanding the impact of a living wage on firm-level wage bills; Matthew Pennycook; IPPR and the Resolution Foundation (May 2012)