

This Report will be made public on 28 August 2019



Report Number **P/19/05**

To: Personnel Committee
Date: 5th September 2019
Status: Non-executive Decision
Chief Officer: Andrina Smith, Chief HR Officer

SUBJECT: IMPLICATIONS OF RAISING THE MINIMUM HOURLY RATE TO £10 PER HOUR

SUMMARY: This report provides the Committee with information relating to the item raised as opposition business at a recent council meeting, namely that our minimum hourly rate should be increased to £10 per hour, in order for the Committee to give appropriate consideration to the proposal.

REASONS FOR RECOMMENDATIONS:

Personnel Committee is asked to note the contents of the report and give consideration to the options and recommendations contained within the report.

RECOMMENDATIONS:

1. To receive and note Report P/19/05.
2. To approve Option 1 within section 4.1 of the report.
3. To recommend to the Joint Staff Consultative Panel that consideration be given to Option 2 within section 4.1 of the report as part of the pay negotiations for 2020/2021.

1. INTRODUCTION

- 1.1 At the Council meeting on 24 July 2019, the Labour Group raised an item of opposition business stating 'that while [the Council] is one of the district's leading employers, it can always look to improve. That paying staff above the minimum requirement improves work ethic, productivity, loyalty and retention....That in offering a minimum of £10 per hour to its staff it sends a strong message to other local employers, with the aim of leading to a more economically secure community...That in having a fixed limit between top and bottom grades of pay promotes fairness, equality, transparency and sense of working as a team.' The opposition business concluded by asking Council to resolve to recommend to Personnel Committee that a minimum of £10 per hour be awarded to all permanent and temporary staff and the incorporation of a fixed pay ratio in the next pay policy statement.
- 1.2 Following discussion, Council resolved and approved that the wording of the motion be amended to read 'That the Council ask the Personnel Committee to consider that a minimum of £10 per hour or £19,300 per annum be awarded to all permanent and temporary staff. Also that a fixed pay ratio be incorporated into the next pay policy statement.'

2. BACKGROUND INFORMATION

- 2.1 The Council has one main pay scale for all staff, with the exception of Corporate Directors and the Head of Paid Service. The main pay scale is attached as **Appendix A**.
- 2.2 Each role within the council is evaluated using the national NJC job evaluation scheme to determine the grade of the role. Each grade has a number of salary points to enable progression. Employees are appointed to a salary point within a grade in accordance with the approved Pay Policy. The table below sets out the number of employees within each of the salary grades.

Grade	Minimum	Maximum	No of Staff
A	£16,078	£16,961	4
B	£17,473	£18,793	28
C	£19,261	£21,161	54
D	£21,941	£24,716	64
E	£25,506	£29,259	84
F	£29,944	£34,225	48
G	£35,196	£40,432	25
H	£41,440	£46,486	22
I	£47,486	£51,709	13
J	£52,828	£58,828	4
K	£59,741	£72,828	4
L	£79,308	£91,248	4

- 2.3 What is the minimum wage?

There can often be confusion over the minimum wage as there are several variations. For clarity, the 3 variations are set out below:

2.3.1 National Minimum Wage

The National Minimum Wage (NMW) is the minimum wage per hour a worker is entitled to in the United Kingdom. These rates are reviewed yearly by the government and are advised by the independent body Low Pay Commission.

The hourly rate increases according to age. For example, the current NMW rates from 1 April 2019 are as follows:

Apprentice	£3.90 per hour
Under 18	£4.35 per hour
18-20 years old	£6.15 per hour
21-24 years old	£7.70 per hour
25 years and over	£8.21 per hour

2.3.2 National Living Wage

In 2015 the Chancellor of the Exchequer announced a new 'National Living Wage' (NLW) which in effect is a national minimum wage for people over the age of 25 introduced to raise pay and productivity. This was implemented via an amendment to the National Minimum Wage Act 1998. Therefore, the current hourly rate for the NLW is as follows:

25 years and over £8.21 per hour

The original forecast was to phase in the NLW between April 2016 and April 2020 and was projected to rise to at least £9 per hour by April 2020. However, over the last 4 years increases have not been as high as originally forecast and the hourly rate is unlikely to be £9 from April next year.

The Low Pay Commission has recently consulted across a wide range of sectors with particular interest in sectors employing a large number of minimum wage workers (retail, hospitality and care) seeking views on the affordability of an increase in the NLW to £8.67 per hour.

2.3.3 Real Living Wage

The real living wage is based on the cost of living and is voluntarily paid by over 5,000 UK employers, it is not governed by statute.

The Living Wage Foundation state that 'the government's NLW is not calculated according to what employees and their families need to live.' The real Living Wage rates are higher than the NLW because they independently calculate the cost of living based on a basket of household goods and services.

The current hourly rate for the living wage is £9.00 per hour from 1 April 2019.

Based upon previous annual increases it is likely to reach in the region of £9.40 per hour. The rate is announced in November each year with those organisations who subscribe to the living wage being expected to implement the increase within 6 months of the announcement.

- 2.3.4 At Folkestone & Hythe District Council there has never been any distinction between the ages of our employees and for at least the last 10 years there has only ever been one salary scale applicable to employees. The only exception to this is where we have employed apprentices or trainees who are paid the appropriate NMW.

The Council currently pays its lowest paid employee the equivalent of £8.55 per hour (Grade A, Point 5) and three others are paid £8.79 per hour (Grade A, Point 6) and historically we have removed any pay points that are below the NLW. The employee on £8.55 per hour will automatically increase to £8.79 per hour in April 2020 which, even if the NLW rises to £8.67 per hour and we do not have a pay award, still means we are compliant with the NLW.

3. CONSIDERATION OF £10 PER HOUR

- 3.1 The proposal put forward as opposition business requesting £10 per hour for all permanent and temporary staff needs careful consideration not only for the potential costs involved in implementing the request but also in terms of awareness to the potential legal implications. In addition, the Council is about to enter into pay negotiations with the staff side.
- 3.2 The request of £10 per hour has similarities to the pay claim lodged by the NJC trade unions (GMB, Unison and Unite) with the National Employers. The 2020 pay claim submitted on 24 July includes the following:

- A real living wage of £10 per hour to be introduced for NJC spine point 1 and a 10% increase on all other NJC/GLPC pay points

Further information relating to the national pay claim and considerations for Personnel Committee will be discussed in a later item on this agenda.

3.3 The cost of implementing £10 per hour

Moving to a minimum of £10 per hour would in effect mean an uplift to any workers in Bands A and B as the bottom of Grade C, Point 11 is currently £19,261 which is only a few pounds away from the requested annual £19,300 or £10 per hour. If a pay award is agreed for April 2020 then the bottom of Grade C will be above the £10 per hour requested.

- 3.3.1 There are currently 4 staff in Grade A and 28 employees in Grade B. If Personnel Committee took the decision to move these 32 staff to the equivalent of Grade C, Point 11 this would mean an increase of £31,627 per annum to the salary budget (including on-costs).

- 3.3.2 Whilst this increase may seem relatively small when compared with the total salary budget of £12million, it does not take account of temporary staff costs in Grades A and B as Grounds Maintenance have seasonal workers via local agencies during the peak period April – October each year. These workers are currently paid the NMW (£8.21) via the agencies which means that the Council pays a higher hourly rate of approximately £12.30 to encompass statutory annual leave etc.

Currently the cost to the Council is in the region of £300,000 per annum, however this would increase by £105,000 to £405,000.

- 3.3.3 In addition, over the course of the year the Council engages agency workers either on a temporary basis to cover for absence or on a temporary to permanent basis when recruiting to a vacancy. The costs of these have not been included in this report.

3.4 Potential legal implications of implementing £10 per hour

- 3.4.1 Equal Pay was first legislated in the UK with the Equal Pay Act 1970 and prohibited any less favourable treatment between men and women in terms of pay and conditions of employment. It has now been mostly superseded by Part 5, Chapter 3 of the Equality Act 2010.

To bring a claim of equal pay an employee must prove one of the following –

- That the work done by the claimant is the same, or broadly the same, as the other employee
- That the work done by the claimant is of equal value (in terms of effort, skill, decision and similar demands) to that of the other employee
- That the work done by the claimant is rated (by a job evaluation study) the same as that of the other employee.

In 1999, trade unions negotiated single status job evaluation for local government to avoid potential pay claims being taken to an employment tribunal. Single status was intended to establish whether jobs were of equal value. Jobs which had previously been classed as manual or administrative / clerical would be brought together under one pay scale and one set of terms and conditions.

- 3.4.2 If £10 per hour was implemented and employees in Grades A and B increased to Grade C, this would almost definitely raise challenges of equal pay.

For example, should a gardener (Grade B) or park keeper be paid the same as a Revenues & Benefits Officer carrying out technical tasks in relation to council tax legislation or housing benefit claims (Grade C)? Or should a gardener (Grade B) be paid at the same grade as the Senior Gardener (Grade C)?

If the answer to these questions is 'no' then consideration would need to be given to the resulting effect of increasing all of the salaries across the

council with £10 per hour being the lowest hourly rate. Whilst this is the basis of the national pay claim, the implication of re-evaluating every role with £10 per hour as the starting point could result in an increase to the salary budget in excess of £1million.

- 3.4.3 The other important piece of legislation is the Agency Worker Regulations 2010 which protects workers who are assigned to temporarily work for a third party through a temporary work agency. From day one of the assignment agency workers have a right to be treated no less favourably than a comparable directly employed employee. After 12 weeks they are also entitled to the same basic working and employment conditions that they would have been entitled to had they been recruited directly. The same basic working and employment conditions relate to pay, working time, rest periods and holiday.

This reinforces the fact that if we adopt a minimum £10 per hour rate then this would need to be applied to agency workers in addition to our employees.

4. POTENTIAL OPTIONS FOR CONSIDERATION

- 4.1 There are several options that could be considered by Personnel Committee:

Option 1:

Do nothing and leave the hourly rates as they are and remain compliant with the NLW.

Option 2:

Remove Grade A and move the staff occupying roles evaluated as Grade A to the bottom salary point of Grade B with no incremental progression available. The cost of this would be approximately £3,250 per annum.

This option would mean that we should remain compliant with the NLW increases for at least the next 4-5 years.

If Personnel Committee were to adopt this option, it would also mean that the Council could choose to be formally accredited as a Living Wage employer by the Living Wage Foundation – there is however an annual cost associated to becoming accredited of £480 plus VAT.

Option 3:

Apply a minimum of £10 per hour and move all affected staff to Grade C of the pay scales. As outlined in sections 3.3 and 3.4 above there could be substantial costs as a result of this, not only for the hourly rates for the employees and workers moved to £10 per hour but also for the entire workforce.

Option 4:

Make no changes to the hourly rates on the pay scale but introduce a section within our annual pay policy statement that recognises the base level at which the Council wants to reward its staff by adding a

supplement to the hourly rates of Grades A and B bringing them up to £10 per hour.

This would still incur the costs outlined in section 3.3 above however would not undermine our current job evaluation scheme or leave any risk of equal pay claims from other employees (section 3.4).

This option could be implemented either as a temporary amendment applied by the current administration for the duration of the administration or reviewed annually or alternatively it could be implemented until each individual salary point hourly rate catches up to the £10 per hour minimum rate.

Recommendation to Personnel Committee:

The recommendation at this stage would be to follow Option 1 with the employers side of the Joint Staff Consultative Panel delegated authority to include Option 2 as part of the pay negotiations for 2020/21.

5. LEGAL / FINANCIAL AND OTHER CONTROLS / POLICY MATTERS

5.1 Legal Officer's Comments (AK)

The legal implications associated with the implementation of £10 per hour for all permanent and temporary staff have been included within the body of this report.

5.2 Finance Officer's Comments (LH)

Any financial implications arising from any reward strategy will need to be considered within the council's Medium Term Financial Strategy process. Estimated costs of the impact of introducing £10 per hour as a minimum hourly rate have been included within the body of the report under section 4.1. The cost in 2020/21 would be £3,730 and, if approved, would need to be built into the current Budget process.

5.3 Diversities and Equalities Implications (ASm)

Issues relating to the Equality Act 2010 have been included within the body of this report.

6. CONTACT OFFICER AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Andrina Smith, Chief HR Officer
Tel: 01303 853405
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The following background documents have been relied upon in the preparation of this report:

None

Appendix:

Appendix A: Folkestone & Hythe District Council's Pay Scale