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|--------------------------|---|---|---------------------|
| <b>Subject:</b>          | <b>Brighton &amp; Hove City Council Living Wage Accreditation</b> |   |                     |
| <b>Date of Meeting:</b>  | <b>29<sup>th</sup> November 2012</b>                              |   |                     |
| <b>Report of:</b>        | <b>Acting Chief Executive</b>                                     |   |                     |
| <b>Contact Officer:</b>  | <b>Name:</b>  | <b>Matthew Wragg</b>                      | <b>Tel: 29-3944</b> |
|                          | <b>Email:</b>   | <b>matthew.wragg@brighton-hove.gov.uk</b> |                     |
| <b>Ward(s) affected:</b> | <b>All</b>  |   |                     |

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 In September 2011 the council made a commitment to the principle of a Living Wage by increasing pay for the lowest paid employees to be in line with the UK Living Wage. Subsequently, Cabinet endorsed the recommendation by the local Living Wage Commission, in March 2012, that the council should explore the possibility of formal Living Wage accreditation from the Living Wage Foundation.
- 1.2 Living Wage accreditation requires that, in addition to paying its own employees the Living Wage, the council puts plans in place to pay relevant contracted staff the Living Wage as well as a commitment to meet any annual increases in the Living Wage rate (both for council and relevant contracted staff). In November 2012 the UK Living Wage rate increased from £7.20 per hour to £7.45.

**2. RECOMMENDATIONS:**

- 2.1 That the Committee instructs officers to seek agreement from the Living Wage Foundation to the proposed procurement approach and exemptions set out in this report.
- 2.2 Subject to the agreement by the Living Wage Foundation to the matters set out at recommendation 2.1 above, that the Committee agrees that the council should formally apply to the Living Wage Foundation to become an accredited UK Living Wage employer from 1<sup>st</sup> April 2013.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

**Background**

- 3.1 The Living Wage is a commitment by an employer to pay a minimum hourly rate to its employees that provides for the basic cost of living. It is a voluntary commitment and is separate from the National Minimum Wage which employers

are required to pay by law. The UK Living Wage campaign is run by the Living Wage Foundation.

- 3.2 Studies by the Greater London Authority (GLA) and Queen Mary's University have found that, where a Living Wage has been introduced, employers and employees believe that paying the Living Wage increases the quality of work. Employers also felt that paying the Living Wage has reduced absenteeism, improved recruitment and retention, and enhanced their reputation.
- 3.3 The UK Living Wage rate is based on the average price of a minimum acceptable basket of goods and services to provide a basic quality of life, including housing and childcare costs. London is excluded from the UK Living Wage and has its own, higher figure which is calculated by the GLA.
- 3.4 The Living Wage is not a fixed amount and will fluctuate over time with changes in the price of goods and inflation. During Living Wage Week 2012 (5<sup>th</sup> to 10<sup>th</sup> November) it was announced that the UK Living Wage rate has risen from £7.20 per hour to £7.45 to reflect an increase in the basic cost of living. The London figure also rose from £8.30 to £8.55.
- 3.5 Brighton & Hove experiences higher living costs than many other parts of the UK. A particular combination of high private sector housing costs and low wages in key sectors of the local economy means that many of the city's residents already face even greater pressure to meet living costs than those in other parts of the country.
- 3.6 The Living Wage is an important step toward achieving the priorities in the council's Corporate Plan, in particular to tackle inequality within the city and also to act as a responsible and empowering employer. The Living Wage is also a contributor to the council's definition of sustainability under the One Planet Living principles.
- 3.7 In September 2011 the council raised its minimum wage for the lowest paid employees. The minimum hourly rate was increased from £6.62 to £7.19 per hour, by deleting Spinal Column Points 7 to 9 of the grading structure, to be in line with the UK Living Wage (at that time of £7.20 per hour), affecting 339 staff.
- 3.8 In October 2011 a local Living Wage Commission was also instigated by the council. Public, private, community and voluntary sector representatives and trade unions worked together to consider the benefits and challenges of establishing a living wage for the city. For full information see [Brighton & Hove Living Wage Commission](#).
- 3.9 In March 2012 the Living Wage Commission concluded that the city should adopt the (then) UK Living Wage rate of £7.20 and, although it was recognised that this would be challenging for many employers, this should be seen as a first step towards a potentially higher figure that fully reflects the cost of living in Brighton & Hove.

3.10 The findings and recommendations of the Living Wage Commission were endorsed by Cabinet in May 2012 with agreement to carry out the following specific recommendations for the local authority and to take learning from the process back to partner organisations via the Public Service Board:

- Brighton & Hove City Council, within its procurement process, to trial requesting contractors to submit a living wage and a non living wage bid as mandatory. With partners the council will share learning and help develop approaches to include the Living Wage in the procurement work of other public bodies in the city. (Recommendation 4)
- Brighton & Hove City Council to lead by example in the public sector and, as part of this, explore the possibility of gaining formal accreditation as a Living Wage employer from the Living Wage Foundation. (Recommendation 5)

### **Findings on accreditation**

3.11 This report presents the findings of investigation by the council into Recommendation 5 of the Living Wage Commission's final report (concerning accreditation). Recommendation 4 (concerning procurement) is in progress and fits with the proposed procurement approach as outlined in this report (paragraphs 3.23 to 3.34)

3.12 Simply described, Living Wage accreditation, which is issued by the Living Wage Foundation (part of Citizens UK), requires an employer to pay all employees the current Living Wage as a minimum and increase this amount in line with any future annual increases in the Living Wage.

3.13 For the purposes of accreditation employees fall into two separate groups, those who work directly for the council and those employed by contractors providing services on its behalf (and their sub-contractors). Findings for each group are set out accordingly below.

3.14 Annual increases in the Living Wage will inevitably present financial implications beyond 2013-14 that cannot be accurately predicted. The council has an obligation to protect its own financial interests, especially in the current climate, and therefore must periodically review and reassure itself on costs related to future increases in the Living Wage.

3.15 However, a growing number of councils around the UK are successfully looking into and signing up for Living Wage accreditation. As of Living Wage week 2012 the following councils had secured accreditation; Birmingham City Council, London Borough (LB) of Camden, LB Hounslow, LB Islington, LB Lambeth, LB Lewisham, LB Southwark, Oxford Council, Preston Council. Others are in the process of acquiring accreditation.

3.16 There will be an annual fee to the council of £400 for accreditation which is paid to the Living Wage Foundation. Fees are charged on a sliding scale and this amount is based on the size of the organisation and also the fact that the council is a public sector organisation.

## LIVING WAGE ACCREDITATION CRITERIA 1 – COUNCIL EMPLOYEES

- 3.17 The new Living Wage would be implemented for council employees from 1<sup>st</sup> April 2013 to align with the financial year. The bottom of Spinal Column Point (SCP) 10 would be increased from £7.19 to £7.45. This would mean a departure from the National Joint Council for Local Government Services (NJC) pay grading structure.
- 3.18 The current estimated costs to raise council employees to the Living Wage are £67,200, as described below, which may be subject to slight variation dependant on staffing changes between now and implementation of the Living Wage. This represents 0.02% of the total salaries budget in 2012/13. Additional costs should be absorbed within all existing budgets.

|                          | <b>Number of staff</b> | <b>Cost</b> |
|--------------------------|------------------------|-------------|
| <b>Non-schools staff</b> | 42                     | £19,800     |
| <b>Schools staff</b>     | 138                    | £16,100     |
| <b>Casual staff</b>      | -                      | £31,300     |
| <b>Total</b>             | 180                    | £67,200     |

- 3.19 It is expected that the Living Wage will continue to rise on an annual basis, broadly in line with variations in inflation. Accreditation requires that any annual increase to the UK Living Wage is expected to be passed on to staff within 6 months of the date of the official announcement. Any future increases will also need to be absorbed within existing budgets.
- 3.20 Over time, as the UK Living Wage rate increases, it can be expected that a point will be reached where increasing pay for those on the lowest Spinal Column Points will start to erode the differential between them and supervisory staff on the next column points. This has been identified as a particular issue for certain groups of schools staff.
- 3.21 While this issue of differentials is not a problem with the recent increase in the Living Wage, and is not anticipated to be a pressing problem in terms of salaries in the immediate years, this will be closely monitored and the council will seek to minimise the risk of any implications for particular staff groups as they unfold.
- 3.22 The costs of meeting the Living Wage for council staff outlined in paragraph 3.18 above would be reduced if any cost of living award is negotiated nationally by the NJC for 2013/14, thereby lifting the council's pay rates and reducing the gap between the current lowest pay rate and the Living Wage.

## LIVING WAGE ACCREDITATION CRITERIA 2 – PROCUREMENT

- 3.23 Following Recommendation 4 of the Brighton & Hove Living Wage Commission (concerning procurement) the council already assesses whether a Living Wage bid is to be included within the tender process, on a case by case basis. It would be unlawful for the authority to adopt a blanket approach, based on the legal

position regarding Living Wage which is set out in Section 17 of the Local Government Act 1988 (non-commercial considerations).

- 3.24 With regard to European Union procurement arrangements, the risk of challenge to a local authority is greater where there is a possibility that a contractor established in another Member State may wish to bid for a contract in the area, and the possibility that such a contractor is likely to post workers to the UK for the purpose of delivering the contract.
- 3.25 Where a contract meets Official Journal of the European Union (OJEU) thresholds and is identified as having cross border interest officers should, in the first instance, contact Corporate Procurement and Legal Services who will assist in the decision whether to include a Living Wage bid or not.

### **Future Procurement practice**

- 3.26 Procurement criteria within the Living Wage accreditation agreement require that, to the extent permitted by law, contractors (and their subcontractors) providing a service on the council's behalf, should pay their employees the Living Wage and also meet any annual increases in the Living Wage rate.
- 3.27 Therefore, within the terms of accreditation, the council can exempt cases where it would not be lawful to consider contracts for Living Wage bids, as is already practice. In addition, the accreditation agreement stipulates that the Living Wage only applies for contractors' employees who work for 2 or more hours on any day of the week, for 8 or more consecutive weeks in a year.
- 3.28 A high level review of Brighton & Hove City Council contracts coming up for renewal or tender over the next 36 months has highlighted a number of contracts where the Living Wage could be applied. These contracts are within the cleaning, catering and social care markets.
- 3.29 Due to the general complexity and potential cross-over with contractor staff servicing neighboring authority contracts, it is recommended that social care contracts be initially excluded. However, contract officers within these service areas would still be required to conduct a best value assessment on social and economic grounds in advance of any tendering activity.
- 3.30 The proposed procurement practice for the remaining opportunities is as follows. Two prices are sought from contractors during the tender process, a 'Living Wage' and 'non-Living Wage' bid. The quality criteria within the tender documentation will remain the same.
- 3.31 Contractor bids will then be ranked accordingly and clearly set out within an evaluation report produced by Corporate Procurement with support from the client lead and finance officers as required. The decision to award either the Living Wage price option or the non-Living Wage price option is taken by the relevant Strategic Director or Director.

3.32 The key benefits and risks are set out below:

#### Benefits

- Clear visibility of the actual financial impact of a 'Living Wage' contract.
- The competitive process may minimise impact of contractors passing on any increased costs of the Living Wage.
- An audit trail of the decision making process.
- The evaluation process will be based on the most economically advantageous tender therefore always having a quality/cost split. Therefore evaluation should not be on price alone.

#### Risks

- Adds potential complexity to the evaluation process.
- Some contractors may decide not to submit a Living Wage bid.
- A decision to award a 'non-Living Wage' contract may result in the authority compromising the terms of its Living Wage accreditation.
- Potential impact on small and medium businesses who may not have sufficient resources to absorb an increase in staff pay and therefore are unable to participate in contracts where a Living Wage variant bid is a requirement.

3.33 It should be noted that a number of existing contracts have significant remaining contract terms, therefore application of the Living Wage on renewal of these contracts will take a few years to implement. This has been recognised by the Living Wage Foundation as an issue for other authorities.

3.34 It will be very difficult to apply the Living Wage to existing contracts, but where the opportunity presents itself to do so (e.g. if the contract includes an extension clause) then this will be implemented if possible.

#### **Agency staff**

3.35 Increases to the Living Wage will also have an impact on workers employed through the Carlisle Management Solutions (CMS) agreement, where CMS are the suppliers of the council's agency staff. There are currently 54 workers at the council who are engaged on the current £7.19 rate.

3.36 It is impossible to give an accurate figure of the likely increase in costs associated with agency staff, as numbers and length of engagement vary significantly from week to week. However it should be noted that there will be an increase in costs associated with these contracts, although it is not expected to be significant.

## **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

4.1 Dialogue with Trade Unions and schools on the proposals within this report are in progress. This will be continued through the period leading up to Living Wage accreditation to make sure any concerns can be raised and considered.

## 5. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

- 5.1 The annual fee for Living Wage accreditation is £400 and will be met from the Policy budget.
- 5.2 It is currently estimated that increasing the minimum hourly rate of council staff from £7.19 to £7.45 in line with Living Wage requirements will cost approximately £0.067 million per annum and these costs will need to be absorbed within existing budgets. £0.021 million of this estimate relates to schools budgets. It is expected that the Living Wage will continue to rise on an annual basis, broadly in line with any increases in inflation, and any future increases will also need to be absorbed within existing budgets.
- 5.3 It is difficult to accurately estimate the additional costs with respect to staff employed through contracts as the pay rate information needed to undertake this assessment is not necessarily available to the council. Assuming all care and schools contracts are excluded from Living Wage requirements (and a specific plan of those contracts included is agreed) this may cost up to £0.700 million per annum once all contracts have been retendered. If however, there are no exclusions, additional costs once all contracts have been retendered may cost over £4 million per annum.

*Finance Officer Consulted: Sue Chapman*

*Date: 6/11/12*

### Legal Implications:

- 5.4 There are a number of Council staff whose pay will be affected by the adoption of the Living Wage. At current rates, this will not impact on the Council's pay and grading structure beyond the proposed uplift to Spinal Column Point 10.
- 5.5 The EU procurement rules and the Local Government Acts 1988 and 1999 impose restrictions which would mean that adopting a blanket policy of applying the Living Wage to all contracts would be unlawful. This is recognised by the Living Wage Foundation, whose licence requires the Living Wage to be considered "to the extent permitted by law". For some services, in particular where there is likely to be cross border interest, a requirement to submit a Living Wage bid could be a barrier to potential suppliers. The risk can be minimised if the decision to apply a living wage requirement is approached on a case by case basis. An assessment will be required in each case prior to tendering a contract as to whether a Best Value case can be made for imposing a Living Wage for a particular contract. The assessment will include linking the Living Wage requirement to the subject matter of the contract. An audit trail of the decision making and reasons for it will need to be maintained. Guidance from the Council's Corporate Procurement and Legal Team will need to be sought to assist contract officers in identifying appropriate contracts to which the Living Wage can be applied.

- 5.6 Where the Living Wage is to be applied, effective contract clauses and contract monitoring arrangements will need to be put in place in order to ensure that the Living Wage is applied fairly and effectively across the whole of the supply chain.

*Lawyer Consulted:*

*Elizabeth Culbert*

*Date: 22/10/12*

Equalities Implications:

- 5.7 Research by Queen Mary, University of London for the Living Wage Foundation finds that 45,000 UK families have been lifted out of working poverty to date as a result of employers signing up to pay the Living Wage. The recommendations in this report contribute to the council's priority to tackle inequality as well as being a responsible and empowering employer.

Sustainability Implications:

- 5.8 The council's approach to sustainability, to become a One Planet Council', includes the principle of Equity and Local Economy, and a commitment to pay employees a Living Wage and aspire to create a working environment that supports equity and inclusiveness.

Crime & Disorder Implications:

- 5.9 There are not considered to be any crime and disorder implications associated with this report.

Risk and Opportunity Management Implications:

- 5.10 Risks around procurement and undue influence on local labour markets are covered in the report. The recommendations aim to mitigate this by approaching contracts on a case by case basis and by negotiating appropriate exemptions. The increased cost associated with increasing pay for council staff will be mitigated to some extent by improved performance and better retention. Making a formal commitment to the Living Wage is an opportunity to strengthen the council's position as an ethical employer.

Public Health Implications:

- 5.11 The Living Wage is shown to improve the standard of living for families. A better wage can contribute to increased job satisfaction and so too to employees' overall health and wellbeing. The aim of the Living Wage is to reduce working poverty, a significant issue in terms of the causes of child poverty in the city and the associated health risks and reduced life chances associated with growing up in poverty.

Corporate / Citywide Implications:

- 5.12 The Living Wage contributes to council priorities for the city around equality and sustainability, and also to be a progressive employer. The council was asked by the local Living Wage Commission to report back on the findings of this report to the Public Service Board. The council will share its findings with a view to help

support the local Living Wage campaign and to encourage other organisations to pay a Living Wage to their staff.

## **6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 The report describes the financial and other implications, including those around future procurement process, of applying for Living Wage accreditation according to the terms set out in the accreditation licence. Considerations were given as to how other councils are introducing Living Wage contracts and the recommended procurement method and exemptions are based on that research.

## **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 In May 2012 Cabinet endorsed the findings of the Brighton & Hove Living Wage Commission and agreed to recommendation 5 of the commission's final report, instructing officers to explore the possibility of the council gaining Living Wage accreditation. This report details the findings and recommends the council formally apply to the Living wage Foundation for accreditation as described.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

None

### **Documents in Members' Rooms**

None

### **Background Documents**

1. Findings and Recommendations of the Brighton & Hove Living Wage Commission, Cabinet Report, May 2012
2. Brighton & Hove Living Wage Commission, Final Report, March 2012
3. Living Wage, Governance Committee report, 20 September 2011

