

**Cabinet - 4 December 2014**

**Report of the Chief Executive**

Electoral Division affected: All
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**Update on the Implementation of the Living Wage**

Contacts for further information:

Eddie Sutton, (01772) 535171, Office of the Chief Executive,

[eddie.sutton@lancashire.gov.uk](mailto:eddie.sutton@lancashire.gov.uk) or

Ben Kinley, (01772) 535085, County Treasurer's Directorate,

[ben.kinley@lancashire.gov.uk](mailto:ben.kinley@lancashire.gov.uk)

**Executive Summary**

The report provides an update to Cabinet on the Living Wage within Lancashire County Council and requests approval for the annual uplift of the Living Wage to be applied to all centrally employed staff from 1 April 2015.

As recommended by Cabinet on 7 November 2013, and agreed by Full Council on 12 December 2013, the Living Wage was fully implemented for all centrally employed staff by 1 April 2014.

Having fulfilled all the criteria, as detailed in the full report, Lancashire County Council has now become accredited as a Living Wage Employer, one of only two shire counties to be accredited, with the right to use the Living Wage Employer Mark.

As part of our commitments as a Living Wage employer, we must adjust the Living Wage within 6 months of an annual uplift (in November each year) and let staff know about this within 28 days of the published uplift. The November increase was announced on 3 November, a 20p increase from £7.65 per hour to £7.85 per hour (a 2.7% rise). The recent budget submission included staff costs assuming an increase of 2.5% in the Living Wage in 2015/16. Cabinet is asked to note the further funding requirement of £46,612 (0.2% additional) for 2015/16, and to approve the overall rise in the Living Wage for all centrally employed staff from 1 April 2015.

Latest returns from schools show that a significant number of them, 582 out of 603 schools (97%), have also agreed to adopt the Living Wage, starting from 1 April 2014 or from the start of the new academic year in September 2014. Given that the vast majority of Lancashire Schools have adopted the Council's approach to the living wage, it is therefore expected that Schools will apply the 20p uplift effective from the 1 April 2015. However this is a decision for each individual school.

Cabinet, in November 2013, asked for a review of the impact of a broader application of the scheme in respect of all organisations that currently provide goods, services and works to the County Council. An initial review has identified a number of challenges in being able to accurately quantify the financial implications. Some good progress is being made in terms of future contracts, for example encouraging providers such as home care providers to pay their staff an improved hourly rate in return for efficiencies and better outcomes for older people and people with a physical disability in Lancashire. However, as detailed in the full report, rather than apply a blanket policy, taking into account that the County Council cannot impose a requirement on contractors to pay the Living Wage, the recommendation is to review the applicability of the Living Wage to individual contracts on a case by case basis.

### **Recommendation**

Cabinet is recommended to:

- (i) Note the full introduction of the Living Wage for directly employed staff from 1 April 2014 as set out in the report;
- (ii) Note successful accreditation of Lancashire County Council as a Living Wage Employer;
- (iii) Recommend that Full Council approves the annual uplift of the Living Wage for centrally employed staff, to be applied from 1 April 2015;
- (iv) Note the significant number of schools adopting the Council's approach to the Living Wage;
- (v) Agree to review the wider application of the Living Wage to council contracts on a case by case basis.

## **Background and Advice**

### **1. Introduction**

Full Council, on 12 December 2013, agreed to introduce the Living Wage for all directly employed staff within the authority, the implementation of this to be introduced on a phased basis. The Living Wage is an informal benchmark, not a legally enforceable minimum level of pay, like the national minimum wage. The basic idea is that the Living Wage is a minimum pay rate needed to let workers lead a decent life.

The Living Wage of £7.65 an hour (rising to £7.85 an hour as announced on 3 November 2014) outside of London is considerably higher than the current national minimum wage of £6.50 an hour for those aged over 21.

At the time of the decision in November 2013, 3.4% of the adult full-time workforce of Lancashire County Council and 45.1% of the adult part-time workforce (of which 92.7% were employed within Lancashire County Commercial Group (LCCG)), earned less than the Living Wage. This included employees directly employed by the County Council working in a range of front line roles such as cleaning, catering, caring for older people and school crossing patrols.

## 2. Introduction of the Living Wage for Lancashire County Council centrally employed staff

It was agreed to introduce the Living Wage on a phased basis. The phasing would ensure the lowest paid centrally employed staff would immediately secure a benefit from this initiative.

### *Phase One*

This involved the removal of Spinal Column Points 5 and 6 and the re-grading of all Lancashire County Council centrally employed employees on these Spinal Column Points to Spinal Column Point 7, as the new, minimum Spinal Column Point, at a rate of £6.69 per hour, backdated to take effect from 1 October 2013. This was at an overall cost of £172,612 in 2013/14, funded from the resources released from the outcome of a review of reserves.

### *Phase Two*

As at 1 April 2014 the old Spinal Column Points 7, 8, 9 and 10 have been removed and a new Grade 2 with a single Spinal Column Point 10 created at a Living Wage rate of £7.65 an hour. All Lancashire County Council centrally employed employees at Spinal Column Points 7, 8, 9 and 10 have now been re-graded to the new Grade 2 with a single Spinal Column Point 10 (a Living Wage of £7.65 an hour). This change is further detailed in Table 1 below:

OLD GRADES (as at 1 October 2013)		SPINAL COLUMN POINT	HOURLY RATE WEF 1 <sup>ST</sup> April 2014 (£)	NEW GRADES (as at 1 April 2014)	
	Grade 2	7	6.69		
		8	6.90		
		9	7.11		
		10	7.26		
Grade 3		<b>NEW 10</b>	<b>7.65</b>		Grade 2
		11	7.71		
		12	7.87	Grade 3	
		13	8.08		

**Table 1**

This change has impacted circa 3,638 employees and is due to cost the Council an additional £2.84m in 2014/15. The additional costs were taken account of in individual service area budgets as part of the County Council's agreed 2014/15 budget setting.

## 3. Accreditation of Lancashire County Council as a Living Wage Employer

As a result of fulfilling all the necessary commitments in an agreed license, the authority recently became accredited as a Living Wage Employer, one of only 2 shire counties to be accredited, with the right to use the Living Wage Employer Mark.

Formal Licence of Accreditation is granted by the Living Wage Foundation to those employers who are committed to an agreed timetable of implementation through the

award of the "Living Wage Employer" mark. To be accredited as an official "Living Wage Employer" an organisation must:

- Pay all its direct staff at least the Living Wage rate;
- Commit to adjusting this within 6 months of an annual updating;
- Demonstrate progress towards requiring existing and new contractors who have contract staff on the organisation's site or land for a designated amount of time to pay the Living Wage to those staff, to the extent permitted by law.

Since April 2014, Lancashire County Council has been in a position to fully comply with the first two requirements of the Living Wage Foundation and recently concluded a piece of work to allow us to comply with the latter one.

This piece of work has required us to identify all contracts where a contractor has staff that work for 2 or more hours in any given day for 8 or more consecutive weeks of the year on a County Council site or land. There are 24 such contracts within Lancashire County Council - for 11 of these, those contractor staff who fit within the above criteria are already being paid the Living Wage.

This leaves 13 contracts where it is believed not all staff who might be on our site or land for the prescribed time are being paid the Living Wage. Any commitment from a supplier would only extend to those particular contract staff on our site or land, so because of this and the lack of information about numbers of staff who might be impacted, which is understood to be low, it is difficult to quantify any potential future financial implication, if indeed there is one. To give some indication of the size of the particular contracts, the total annual value of 12 of the 13 contracts is circa £10m, with the remaining one contract for Construction New Build potentially of a value of up to £35m per annum depending on our new build requirements.

The Living Wage Foundation recognises that it would not be lawful to amend contracts to include a Living Wage clause part way through a contract, so allow organisations to approach this on a rolling basis as contracts expire. They also recognise that there are limitations to where a Living Wage commitment can be applied to a contract. Demonstrating progress is the key commitment. The first of the 13 contracts up for renewal is in June 2015.

Over the next two to three years as contracts come up for re-tendering the council will look to ensure to the extent permitted by law that those staff who work on council sites or land for 2 or more hours in any given day for 8 consecutive weeks be paid the Living Wage as a minimum. Individual contracts will be reviewed jointly by Legal Services and the Procurement Service at the time of contract re-tendering to assess whether a Living Wage clause is appropriate (see Legal Implications section below) and this is reflected in a milestone plan provided to the Living Wage Foundation as part of the licence agreement.

#### **4. Uplift of the Living Wage in November 2014**

As agreed in the Cabinet Report of 7 November 2013, there is a commitment to adjusting the Living Wage within 6 months of an annual updating (in November each

year). The Living Wage annual increase was confirmed on 3 November, as a 20p per hour increase from £7.65 per hour to £7.85 per hour, a 2.7% rise.

As detailed in the recent budget forecast, including 2015/16, the assumption in relation to increases in the Living Wage has been set at 2.5% each year in line with the assumption for RPI inflation. For other pay, the forecast is for a 1% increase in 2014/15 and 1% in 2015/16.

The Living Wage uplift is calculated on the basis of a set of indices which are only available in October each year, hence a marginally higher rate than the RPI forecast (0.2% higher than forecast). This difference equates to £46,612 additional cost in staff costs over and above the original forecast in the budget. Final budget proposals to be presented in February 2015 will reflect this additional cost and cover all elements of funding.

This increase applies to all those currently at Grade 2 on SCP10.

Approval is being sought from Cabinet for the overall increase in the Living Wage to be paid to all directly employed staff from 1 April 2015, thereby complying with the commitment to adjust the Living Wage within six months of an annual updating.

The impact of this change is further detailed in Table 2 below.

Grade		SCP	Current hourly rates £	New LW hourly rate as of 1 <sup>st</sup> April 2015, a 2.7% uplift. £	New hourly rate as of 1 <sup>st</sup> Jan 2015 Assuming 2.2% pay award £
<b>Grade 2</b>		<b>10</b>	<b>7.65</b>	<b>7.85</b>	
	<b>Grade 3</b>	11	7.71		7.88
		12	7.87		8.05
		13	8.08		8.26

**Table 2**

Subject to approval, all staff impacted will be told about the increase due on 1 April 2015 following the Cabinet meeting via a Staff Notice.

## **5. Lancashire Schools**

The Cabinet report of 7 November 2013 proposed that the position in relation to schools be the subject of discussion with the Schools Forum. It is recognised that the decision as to whether to adopt payment of the Living Wage ultimately sits with the individual school governing body but Lancashire County Council has encouraged adoption through the Schools Forum and other routes.

Latest returns to the Council from individual schools, as at 13 November 2014, detail that a significant number, 582 out of 603 schools responding (97%), have agreed to adopt the Living Wage from 1 April 2014 or from the start of the academic year in September 2014.

A small number of schools, 21 of them, have determined not to introduce the Living Wage at this time but have said they may well consider the introduction at a later date.

## **6. Broader application of the Living Wage to all contracts**

There was a proposal in December 2013 that a further review take place to consider the benefits to the Lancashire economy and its citizens and the financial implications should a broader application of the scheme be considered in respect of all organisations that currently provide goods, services and works to the County Council.

Further work on this has highlighted a number of challenges in completing any such review to conclusion:

- Lancashire County Council has over 300 live contracts with many hundreds of suppliers within the county and some others outside the county. We have very little information on what those suppliers currently pay their staff, as other than commitments to statutory provisions such as the minimum wage, the pay of staff is either not referenced in the County Council requirements or agreed terms and conditions when current contracts are let. This lack of information means that it is almost impossible to quantify the financial implications.
- It would be illegal for a procurement policy to say the council can *only* engage with Living Wage paying suppliers, given the Living Wage is greater than the mandatory legal minimum wage. Private businesses and indeed the public and Voluntary, Community and Faith Sector (VCFS) could challenge such a position.

However, there are contracts where requiring a commitment from providers to raise wage rates towards the Living Wage is considered to be appropriate. Examples of these are the re-commissioning of home care services for older people and home care services for people with a physical disability in Lancashire. Both are the subject of major procurement exercises, which are potentially worth £350m over 7 years and include the adoption of some fresh approaches in relation to workforce, contracting and market management with the aim of delivering high quality care and support to Lancashire's citizens on the basis of improved staff recruitment, retention and training across the home care sector.

In the light of the Council's challenging financial position, it was clear that any proposals for home care had to be affordable in the context of the Adult Services budget over the lifetime of the current Medium Term Financial Strategy. An increase in hourly rate fees from the County Council to providers to enable them to pay their staff an increased wage is therefore balanced against anticipated savings and efficiencies which will come about by having fewer providers operating on a framework agreement who will work in defined zones to reduce travel costs and staff downtime. Whilst we do not expect providers to pay the full Living Wage of £7.65 (now risen to £7.85) from commencement of the new framework, we do expect providers to share our commitment to improving home care terms and conditions and pass the major proportion of the council's hourly rate increase to their staff. This will involve a commitment to increasing the pay rate for their staff from

commencement of the contract to £7.20 per hour where pay rates are currently below this. This will represent an increase of 7% on the current median wage rate for this sector of the social care workforce and be a major leap towards meeting the County Council's longer term commitment to the Living Wage and its responsibilities under the Social Value Act. For home care for older people, the anticipated commencement date for the contract is April 2015. For home care for people with a physical disability it will be later in 2015.

For other contracts there is necessarily a different set of considerations. As Council contracts come up for renewal, alongside that, the Council as an organisation will be changing. This will likely mean that requirements for services within contracts change. The authority does want to encourage the Living Wage more widely within the community, but given potential changes in service, and that the County Council cannot impose a requirement on contractors to pay the Living Wage, the recommendation is to review the applicability of the Living Wage to individual contracts on a case by case basis.

## **7. Further update to Cabinet**

A further report will be submitted to Cabinet in November or December 2015 with a further update after the next Living Wage increase is announced on 3 November 2015.

### **Consultations**

N/A

### **Implications:**

This item has the following implications, as indicated:

### **Risk management**

N/A

### **Financial**

The cost of adopting the Living Wage policy in relation to centrally employed staff is reflected within the Council's Medium Term Financial Strategy, based on an assumed annual cost increase of 2.5%, which is in line with the more general inflation assumption built into the forecast. This is 0.5% greater than the level of increase assumed in future years.

Where the Council chooses to use its purchasing power to encourage suppliers in other fields to adopt the Living Wage then the financial implications fall to be met within the available purchasing budget as has been proposed as part of the Domiciliary Care procurement process.

## Legal

Although the council has the right to encourage the Living Wage and adopt policies relating to the remuneration of its own staff, it cannot impose requirements on contractors to pay the Living Wage as a matter of policy. Requirements relating to Living Wage considerations must be lawful in terms of procurement, that is to say relevant to the actual goods or services being procured and not just applied on the grounds of policy. For example, if the Living Wage requirements are linked to contract performance and reliability and not purely cost, it may be appropriate to include a requirement that the nominated contractor must pay staff the Living Wage. In terms of commitments as part of the Living Wage Employer accreditation, for the 13 contracts where contractors have staff on site for 2 or more hours per day for 8 consecutive weeks, each one will be reviewed jointly by Legal and Procurement at the time of contract re-tendering to assess whether a Living Wage clause is appropriate. Where appropriate, the requirement will be included in the upfront tender documentation.

## Human Resources

The current NJC pay proposals for 2014/16 are undergoing consultation with Councils and Trade Unions concurrently and this is due to end on 14 November 2014. There are a number of different elements to the pay proposals, however the main elements for consideration in relation to the Living Wage are as follows:

- The pay proposals cover the period up to 31 March 2016.
- 2.20% increase for NJC spinal column points 11 and above with effect from 1 January 2015.
- Deletion of SCP 5 with effect from 1 October 2015.

The pay award proposals still need to be agreed and there is no guarantee that the proposals will be the final agreed offer, however the pay award proposals are largely viewed as being the best that can be considered in the current financial circumstances.

The pay grade differentials have reduced with the introduction of the Living Wage and would reduce further with the implementation of the new Living Wage rate, as follows:

SCP	Current Hourly Rate	Differential	Proposed Hourly Rate	Differential
10 (Living Wage)	£7.65	N/A	£7.85	N/A
11	£7.71	6p	£7.88	3p
12	£7.87	22p	£8.05	20p
13	£8.08	43p	£8.26	41p

Although the future NJC pay award increases and Living Wage rate increases are unknown, the current trend is that the Living Wage rate increase is higher than the NJC pay award increase, therefore it is likely that the pay grade differentials will reduce even further and if this trend continues the Living Wage rate will potentially overtake SCP 11 and 12 in the next 2 years. Further reports will be submitted on an annual basis to consider the ongoing implications.



## List of Background Papers

Paper	Date	Contact/Directorate/Tel
Report to Cabinet - 'Introduction of the Living Wage for Lancashire County Council Employees'	7 November 2013	Dave Gorman, Office of the Chief Executive, (01772) 534261
Reason for inclusion in Part II, if appropriate		
N/A		