

27 June 2023		ITEM: 7
General Services Committee		
Pay Policy 2023/24 – Senior Manager Pay		
Wards and communities affected: N/A	Key Decision: N/A	
Report of: Andrew Brown – Strategic Lead Pay & Operations		
Accountable Assistant Director: Andrew Brown – Strategic Lead Pay & Operations		
Accountable Director: Jackie Hinchliffe – Director of HR, OD & Transformation		
This report is Public		

Executive Summary

The Localism Act 2011 requires the Council to publish an annual Pay Policy Statement for chief officers, which must be approved by Council by 31 March each year. The Council's Pay Policy Statement for 2023/24 was approved by Council on 1 March 2023, this applied a 4% pay increase for Grades A-I. Within the report it specified that senior manager pay would be considered in a subsequent report to Council.

This report sets out the position regarding pay for Senior Managers. Pay for senior managers is governed by the 'Pay Strategy and Pay Policy' which was implemented in 2010, an annual review is conducted each year to determine pay awards. The policy applies to Assistant Directors, Directors and the Chief Executive.

The independent assessment this year recommends a 4% increase in the pay clusters for senior management pay. This, alongside other options, are set out in sections 3.2 and 3.3 of this report.

General Services Committee are asked to consider options and determine a recommendation to Council in July.

Commissioner Commentary

The Council's Section 151 Officer has issued a s114 notice which places restrictions on what the Council can spend to ensure that the Council will be able to balance its budget in the future. However, the Council is permitted to continue spending on existing staff payroll and pension costs, and on existing legal agreements and contracts.

The Council has a Pay Strategy and Pay Policy that requires an annual review of salaries for senior managers to be undertaken and a recommendation submitted to General Services Committee and Council for approval. The purpose of the review is to ensure senior manager pay at Thurrock remains competitive. The review to determine 2023/24 salaries is particularly challenging taking place during a period of high levels of inflation and employers competing for talent in a tight labour market alongside the implications of the s114 notice.

The senior manager pay review aligns with the theme of Leadership and Culture within the Improvement and Recovery Plan (IRP) as part of the key workstream of enabling organisational capability. This need to ensure senior manager capacity to deliver the IRP needs to be considered alongside the financial and wider implications of the s114 notice.

The Council will review the approach to senior manager pay to ensure the design of senior corporate leadership roles and the attributes required to undertake them, as well as their remuneration, is delivered alongside the design and implementation of the future operating model.

1. Recommendation(s)

1.1 Consider the legislative and policy background to the annual senior manager pay review (section 2).

1.2 Consider the outcome of the annual review and benchmarking (section 3.1).

1.3 Consider context in which this year's review is taking place (section 3.2).

1.4 Consider benefits, risks and legal implications for options presented (section 3.3).

1.5 Determine a preferred option to recommend for inclusion in the revised annual Pay Policy statement for approval at Council in July 2023.

1.6 Note the commitment to undertake a wider review of pay and reward in the Council, including senior manager pay and arrangements for determining on-going annual pay settlements.

2. Introduction and Background

2.1 The Localism Act 2011 requires Councils to publish an annual Pay Policy Statement for Chief Officers. The statement must be approved by Full Council by 31 March each year.

2.2 The 2023/24 Pay Policy Statement, agreed at Full Council on 1 March 2023, did not include the annual pay award for Senior Managers. Further information and analysis of options was required before the award could be determined.

2.3 Senior Manager pay arrangements are governed by the 'Pay Strategy and Pay Policy for Senior Managers'. Implemented in 2010, the Senior Manager pay scales comprise a single pay cluster for the Chief Executive, five for Director roles and five for Assistant Director roles. The Council currently has a Managing Director Commissioner, so the Chief Executive cluster is not included in this year's report. The scales currently cover 27 roles. The current 10 senior pay bands are shown in Appendix 1, which includes the level of salaries for different levels of increase. The pay structure covers all pay elements. No performance pay or car allowance is paid in addition.

2.4 The Pay Strategy and Pay Policy for Senior Managers sets out how pay grades and salary levels are determined:

- *The 'normal' pay for each post is derived by taking a median point of the salary data for similar positions, weighted 50% towards Unitary Authorities and 50% towards London Boroughs.*
- *The market median pay points will be reviewed in February of each year and adjusted to forecast pay for 1 April.*
- *There will be no other 'cost of living' increase. The annual review of market pay points replaces the NJC arrangements in place prior to 1 April 2010.*

2.5 The market median pay points are reviewed each year to forecast the applicable figure for 1 April. The pay assessments are undertaken by an independent body which provides the Council with a recommendation.

2.6 Since 2010 the Council have used an independent body – Total Reward Projects Ltd – to conduct the annual review of salary levels and submit a report and recommendation to the Council. The purpose of the independent assessment is to ensure the Council's pay levels represent good value, are transparent, fair, and competitive.

2.7 However, the context for the 2023/24 is different to previous years following the s114 notice, which requires greater scrutiny as set out below:

- Financial - ensuring a pay settlement represents value for money in terms of comparative levels of reward offered to senior managers and recruitment and retention leadership capacity needed to take the Council forward.
- Community – ensuring any increase does not cause reputational damage and the need to maintain confidence of residents and businesses in light of a 10% increase in Council Tax, high inflation and concern over the future of services provided.
- Values – balancing the need to give senior managers a fair level of reward that recognises their worth whilst postholders demonstrate a commitment to lead in challenging circumstances motivated by the Council's values and ethics of public service, not just remuneration.

3. Issues, Options and Analysis of Options

3.1 Annual review and benchmarking

3.1.1 Based on the methodology set out in 2.4 above, the recommendation from the independent assessors for 2023/24 is to increase the senior manager pay scales by 4%. Their report is attached as Appendix 2.

3.1.2 The outlook for pay settlements in 2023 remains unpredictable. The cost-of-living crisis, inflation around 10% and industrial action across many sectors presents a volatile environment for pay settlements, particularly in the public sector.

3.1.3 National pay claims from the Trade Unions representing Chief Executives and Chief Officers are:

- For Chief Executives - a percentage increase matching the top of the NJC scales plus matching increase in annual leave.
- For Chief Officers - RPI + 2% (currently 12.4%) plus additional annual leave.

3.1.4 The national employers have offered Chief Executives and Chief Officers an increase of 3.5%, this has been accepted by Chief Officers. The wider NJC offer is a further flat rate increase of £1,925 with a minimum increase of 3.88%. Trade Unions will be balloting their members but are recommending rejection.

3.1.5 Senior Pay in Thurrock is not directly linked to the national negotiations but determined through the market assessment set out in 2.5. and 2.6 above. Details of 4 previously agreed increases and the outcome of the review for 2023/24 compared to the national pay award for Chief Officers is set out in table 1 below.

Year	National Award	Thurrock Award
2019/20	2.0%	2.0%
2020/21	2.75%	2.0%
2021/22	1.50%	0.0%
2022/23	£1925 = 1.77% (average) (range is 1% - 2.5%)	2.25%
2023/24	3.5% (national offer)	4.0% (recommendation)
Total	11.52% (range 10.75% - 12.25%)	10.25%

Table 1 – National and Thurrock Pay Awards 2019/20 to 2023/24

3.1.6 The above shows that the annual review process used by the Council based on analysis of median market salaries has not kept pace with the national pay

awards. The main reason for this is the outcome of the 2021/22 review which awarded no increase compared to 1.5% nationally.

3.1.7 Table 2 sets comparative salaries in selected other authorities as at 2022:

Council	CEX	Directors	Assistant Directors	2023 Increase
Thurrock	186,000.00	107,000.00 – 144,500.00	80,000.00 – 102,500.00	TBA
Medway	168,685.00	115,000.00 – 135,532.00	85,000.00 – 92,653.00	TBA
Croydon	192,474.00	134,750.00 – 150,547.00	94,968.00 - 119,646.00	3.5% min
Waltham Forest	201,159.00 – 217,762.00	101,276.00 – 176,925.00	86,599.00 – 97,899.00	3.5% min
LBBB	184,557.00	90,825.00 – 160,832.00	Not available	3.5% min
Slough	147,179.00 – 176,232.00	100,617.00 – 141,371.00	62,379.00 – 97,948.00	3.5% min
Luton	189,491.00 – 206,093.00	130,197.00 – 142,147.00	96,127.00 – 101,649.00	3.5% min
Havering	183,299.00 – 190,100.00	123,686.00 – 163,529.00	84,947.00 – 115,937.00	3.5% min
Southend	188,237.00	125,152.00	96,544.00	TBA

Table 2 – Comparative Salaries as at 2022

3.1.8 Although direct comparisons of some salary ranges are challenging, as councils classify their structures in different ways, the benchmarking provides an indication of senior salary levels in other unitary councils, councils in intervention and London Boroughs.

3.1.9 The cost of increasing senior manager pay is £34,000 for every 1%. To implement the 4% recommendation would cost the council £136,000.

3.2 Options - Context

3.2.1 Four options have been assessed:

- A) Pay the 4% increase recommended in the independent assessment
- B) Match the 3.5% national pay offer to Chief Officers
- C) Apply a lower % increase determined by the Council
- D) Offer no increase

A full analysis of the costs, risks and benefits are set out in section 3.3. below. The Council's current context is an overarching consideration in the determination of the senior manager pay award for 2023/24. The Council is in intervention and has issued a s114 notice as is it unable to balance the budget without exceptional financial support. Government support will be required for several years.

- 3.2.2 The Government directions issued in March provide for the Commissioners to determine the senior structure and roles, the Managing Director Commissioner will be considering the structure in the next few months. The new organisational model will inform the capabilities and reward strategy required for the medium to long-term.
- 3.2.3 In the short-term, the Council needs to continue to attract and retain the skills and capacity to deliver the Improvement and Recovery Plan, provide corporate leadership through a period of unprecedented change and transformation required to stabilise the council and bring about sustainability. A competitive reward package will be an essential component of an overall package of attracting and retaining appropriate talent that includes factors such as a positive work culture, opportunity to lead transformation and deliver services for the benefit of the community along with professional and personal growth.
- 3.2.4 In addition to having competitive and attractive salaries, the Pay Award under consideration relates to the increase effective from 1 April 2023. Provision has been made in the Council's budget for a 4% pay increase in 2023/24. The Council have agreed to conduct a review of pay and reward in 2023, this will include a review of the pay policy for senior managers. The review will include an analysis of the advantages and disadvantages of local negotiation of pay awards compared to being part of national collective bargaining machinery. Details of the review are set out in a separate report.

3.3 Options Analysis

A) Pay the 4% increase recommended in the independent assessment

Financial cost - £136,000, most expensive option.

Benefits - In line with the Council's custom and practice and follows the median benchmarking model contained in the Senior Manager Pay Strategy and Pay Policy. Levels of engagement and motivation of senior manager cohort unlikely to be negatively impacted. Slightly higher than national offer so will support the Council's ability to recruit and retain. Increase also matches the award for the rest of the workforce, may be seen as a demonstration the Council values its senior cohort equally. No risk of legal challenge.

Risks - Higher than national pay offer, likely to result in reputational damage if the Council gives a higher level of increase than comparators in the majority of local authorities. Strong possibility would be viewed by community and other stakeholders as reward for organisational failures which are likely to be perceived externally as attributable to both individual and collective leadership responsibilities.

B) Match the 3.5% national pay offer to Chief Officers

Financial cost - £119,000 - £17,000 less than option A.

Benefits – Slightly lower than the increase recommended by the independent assessment so unlikely to adversely affect the engagement and motivation of senior the manager cohort provided there is a rationale for decision e.g. reasons for equity with the sector versus majority of the workforce. Increase would be in line with the national offer, which was made on a final offer basis. Based on previous settlements, unrealistic to expect any improved offer from National Employers. An offer made at the same level of increase as that of the wider sector is less likely to be view by stakeholders as excessive rewards for the highest paid.

Risk – The narrow gap that has occurred between the accumulative impact of Thurrock’s senior manager and national pay awards would remain. Reinforces the need for a review of the annual pay review process and the respective merits of local versus national pay bargaining. Any pay award that falls below expectations can result in disengagement and increased turnover which in turn may result in additional associated costs. However, pay is rarely the only factor that influences such decisions. Some potential for legal challenge for an increase that does not exactly match the independent assessment. Given the difference is 0.5%, costs of litigation more than likely outweigh the benefits.

C) Apply a lower % increase determined by the Council

Financial cost - £68,000 if 2% - half the amount option A.

Benefits – settlement demonstrates restraint and avoids perception of unjustified financial rewards for the highest paid 1% of the workforce. Short-term financial benefit to the pay bill, possibility of adverse impact in medium to long-term dependent on individual responses and motivations influencing recruitment and retention decisions.

Risk – Significantly lower than the increase recommended by the independent assessment so strong possibility that initial reaction will be a negative response from the senior manager cohort. Subsequent decisions and levels of engagement and motivation are more likely to be influenced by wider personal and professional considerations at an individual level. Short-term increase in turnover could result in loss of leadership and organisational knowledge impacting capacity to deliver recovery plan and shaping new organisational model. Perception of future applicants may not be favourable, but direction of travel for the Council and placing a commitment on record to review future basis for determining pay settlement and a wider review of pay and reward will consider relative market position for the overall employee value proposition. The larger the gap between the offer and the independent recommendation (option A), the greater the benefit to be gained from a successful legal challenge.

D) No increase

Financial cost - £0.

Benefits – settlement fully demonstrating restraint to the community and other stakeholders. Immediate benefit on pay bill may not be sustainable in medium and longer-term if turnover increases and results in additional costs.

Risk – Least favourable option from perspective of senior manager cohort and therefore the greatest risk to the stability of existing leadership and capacity to delivery recovery plan. Initial adverse response more likely to occur and continue, possible impacts on others part of the workforce if leaders appear to be dissatisfied. Salary is a core benefit and if it is not maintained at a level individuals perceive as fair value for their experience, skills and commitment or competitive in the sector, the more likely that it will influence their decision-making and turnover. Reputation in recruitment context could be unfavourable. A commitment to reviewing pay and the basis of future settlements may be less persuasive and reassuring about longer-term competitiveness and recognition of senior managers. There will be a tipping point at which the majority will give less weight to non-pay issues, the precise level cannot be predicted with any accuracy. If there is a high degree of uncertainty amongst the senior manager cohort from the personal consequences of the implementation of a new organisational model, there will be concern about the impact of benefits associated with potential redundancies and pension benefits. This option carries the greatest risk of legal challenge and financial gains if potential claims were successful.

4. Reasons for Recommendation

- 4.1 The options set out above provide a range of outcomes, along with their respective benefits and risks, to enable a decision to be made for the annual senior manager pay review. A review is required to comply with contractual requirements and the provisions of the Senior Manager Pay Strategy and Pay Policy. The annual review provides a means to ensure consideration is given to the Council continuing to be an attractive employer in a competitive market whilst ensuring value for money.
- 4.2 The options are to be given due consideration taking into account the associated risks and benefits of each. In addition to the above analysis, legal implications need to be taken into account before reaching a decision. These are set out in section 7.2 below.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The recommendations set out within this report are required to be referred for decision by General Services Committee and Council.

6. Impact on corporate policies, priorities, performance, and community impact

- 6.1 The Annual Pay Policy Statement 2023/24 will be updated to reflect the option selected regarding senior managers pay.

7. Implications

7.1 Financial

Implications verified by: **Jonathan Wilson**
Interim Director of Finance and S151

There is sufficient growth built into the Medium-Term Financial Strategy that covers the costs that arise from the options set out within this report.

Given that the Council is operating under a s114 notice any use of this budget will need to be considered at the time of a pay award being given.

7.2 Legal

Implications verified by: **Asmat Hussain**
Interim Director of Legal and Governance (MO)

Sections 38 to 43 of the Localism Act 2011 require Councils to prepare a Pay Policy Statement for each financial year and the Secretary of State, pursuant to section 40, has issued both the original Pay Accountability Guidance in February 2012 and a supplementary guidance in February 2013. The Pay Policy for 2023/24 was agreed at Council on 1 March 2023. This report focuses specifically on the recommendation for senior managers pay and legal advice has been provided in this regard which sets out that the Council has an obligation to conduct a review for senior managers as detailed within the terms and conditions of the employment contract.

The Council's Chief Finance Officer has issued a s114 notice which places restrictions on what the Council can spend to ensure that the Council will be able to balance its budget in the future. However, the Council is permitted to continue spending on existing staff payroll and pension costs, and on existing legal agreements and contracts.

The legal status of Thurrock's Pay Strategy and Pay Policy is set out in the body report with an assessment of the options available and their associated risks and benefits. Expenditure in relation to the annual senior manager pay review falls into the category of an exceptional reason for spending to be agreed.

The legal advice was that the terms of the senior managers' contract of employment mean that the Council is obligated to carry out an annual review

of pay with reference to the market median pay points and failure to do so would be a breach of contract.

The provisions contained within Thurrock's Senior Manager Pay Strategy and Pay Policy are not considered by Legal Counsel to be incorporated into the contract of employment. Therefore, the fact that the Council has issued a s114 notice does not mean it can rely on affordability as a reason to depart from the obligation to carry out the annual review.

Failure to pay the increase may result in claims being submitted for unfair constructive dismissal, breach of contract and/or unlawful deductions from wages.

7.3 Diversity and Equality

Implications verified by: **Rebecca Lee**
Community Development and Equalities

The options set out within this report have been independently assessed based on agreed factors within the Pay Strategy and Pay Policy. This includes the fulfilment of responsibilities set out in the Equality Act 2020 and Public Sector Equality Duty.

All information regarding Community Equality Impact Assessments can be found here: <https://intranet.thurrock.gov.uk/services/diversity-and-equality/ceia/>

7.4 Other implications (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

No other significant implications have been identified.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- [Annual Pay Policy Statement 2023/24](#)

9. Appendices to the report

- Appendix 1 – Current and Modelled Senior Manager Pay Scales
- Appendix 2 – Senior Pay Review, Thurrock Council, January 2023

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