

WEST DUNBARTONSHIRE COUNCIL

Report by the Chief Executive

Council - 28 October 2009

Subject: £7 Minimum Living Wage

1. Purpose

1.1 The purpose of this report is to consider the possibility of:-

- Removing the bottom progression point in each of the 12 grades of the agreed West Dunbartonshire Council pay and grading structure with effect from 1 April 2010;
- Placing all Grade 1 staff at the top of the pay scale;

and to outline the impact that such proposals would have in relation to the Council's Pay and Grading Structure.

2. Background

2.1 At the Council Meeting of 29 April 2009, Officers were instructed to prepare a report which would explore the possibility of the Council adopting a £7 per hour minimum wage.

2.2 Following the submission of a report to Council on 24 June 2009 it was agreed that a further report be brought to a future Council Meeting which considered the possibility of removing the bottom progression point in each of the 12 Grades for the start of the next financial year. It was also suggested that officers meet with officers from Glasgow City Council to discuss how that Council had implemented its minimum wage policy.

2.3 West Dunbartonshire Council has a statutory duty to provide equal pay for its employees and to conduct regular equal pay audits. Failure to meet these statutory responsibilities may result in future costly litigation and possible enforcement action by the Equalities and Human Rights Commission.

2.4 Following the implementation of the Single Status Agreement within West Dunbartonshire Council on 1 March 2009 a new pay and grading structure was developed based on the job evaluation outcomes of the agreed Scottish Councils' Job Evaluation Scheme. In developing this structure Council adopted Equal Opportunities Commission guidance and best practice by using statistical techniques including regression analysis to determine the relationship of job evaluation points to pay. This analysis identified clusters of jobs with similar demands and also gaps in these clusters in which to place grade boundaries. The outcomes of the regression analysis were also used to

anchor the pay points of the new grades to the nationally agreed spinal column pay points.

- 2.5** The pay modelling principles adopted, following consultation with Trade Unions, were that all employees covered by the National Single Status agreement would have their role evaluated, their grades determined by that assessment and they would subsequently progress to the top of the pay band within a four year period, as the top or maximum of the pay scale is recognised as the 'rate for the job'
- 2.6** The agreed pay and grading structure underwent an independent Equality Impact Assessment and was fully endorsed as meeting the authority's statutory duty to provide an equality based pay and grading framework. This framework will provide a robust defence against future equality claims.

3. Main Issues

- 3.1** In light of the considerable work that was undertaken to create a Pay and Grading structure that fully met the Council's equality duty and provided a robust defence against further costly litigation an independent external assessment of the equality impact of the proposed changes to the pay and grading arrangements has been undertaken. This was considered essential to ensure that any alterations to the pay and grading structure were fully considered in relation to the Council's statutory equality duty and that any potential risks to the Council from future direct or indirect sex discrimination claims were highlighted. The independent external assessment was conducted by Jean Couper who undertook the original equality impact assessment in relation to Council's revised pay and grading structure to support implementation of the Single Status Agreement.
- 3.2** The assessment examined the proposal to place all employees in grade 1 on a single grade point of £7 per hour and the proposal to remove the lowest increment in each of the other grades. The Equality Impact Assessment highlighted the following:

£7 Minimum Wage – Single Scale Point

While it was noted that this proposal offers financial benefit to approximately 400 of the lowest paid employees within the Council, the majority of whom are female, it gives rise to a number of concerns the most significant of which are:

- the rate would no longer reflect the assessment of the job content through the job evaluation process,
- the differential in pay rates between grade 1 and 2 would be significantly reduced whilst the differential in job content would not have changed
- The adoption of an arbitrary rate not linked to job evaluation and the statistical methodology used to develop the pay structure undermines the integrity of the current pay structure
- The deployment of separate methods of setting pay for different groups of employees within the same job population (to whom a common Job

Evaluation scheme applies) potentially renders the Council vulnerable to a challenge that the pay structure is fundamentally flawed.

Proposal to remove lowest increment in all grades

The possibility of removing the bottom progression point in each of the 12 broad banded grades may be seen as offering a benefit to all employees it retains areas of concern from the perspective of compliance with the principles of the implementation of 'single status' and compliance with the requirements of the Equal Pay Act and specifically in the following areas:

- It would distort the relativities set between the top of one grade and the bottom of the next which are based on the outputs of the regression analysis and appropriate mapping to the SJC spinal column.
- It would favour employees on the lowest increment in each grade but not those on higher increments and could be argued to be to their disadvantage in that the value of their experience, skills, competencies and qualifications which form the basis for progression through the grade would be undermined.
- Overall this proposal would move the Council away from the basis of its implementation of pay and grading which was endorsed as being based upon best practice principles and advice and as being non discriminatory in its design. It also has the potential to lead to challenge by employees who do not stand to benefit from this proposal on the basis of it discriminating against those who have progressed through some or all of the increments.

The Equality Impact Assessment of the proposals therefore highlights real concerns that adoption of either of these proposals would distort the pay and grading model developed upon the evaluation of roles and the link between job content and payment levels established through the application of statistical methodology. It also concludes that by undermining the integrity of the overarching pay and grading structure the Council remains vulnerable to legal challenge and remains at risk in terms of defending its pay structure as being compliant with the requirements of the Equal Pay Act. In order to maintain a systematic and objective approach to determining pay any proposal for change would require the whole pay and grading model to be re-examined with the associated requirement for employee consultation and contractual change.

- 3.3** Contact was made with Glasgow City Council to investigate how the minimum wage policy was implemented and to request details of Council Reports in relation to this matter, particularly in relation to the equality issues involved in amending pay structures. While discussions took place on the implementation of the policy no reports have been made available in relation to the equality impact that this policy had on the pay and grading structure within Glasgow City Council. From an implementation point of view officers in Glasgow confirmed that less than 200 employees were affected and that as implementation of their new pay and grading structures took place several

years ago most staff were already at the top point of their scale. Consequently there was minimum financial impact.

- 3.4** Discussions have also taken place with the Employers Secretary of the Scottish Joint Council who advised that authorities should develop pay structures based on job evaluation outcomes and utilising the nationally agreed set of spinal column points. He also confirmed that the SJC was committed to tackling the issue of low pay and that work in this capacity was ongoing.

4. Personnel Issues

- 4.1** The development and introduction of the new pay and grading structure as part of the Single Status exercise was hugely contentious resulting in many employee relations issues. Any alteration of the pay model which would advantage particular job groups could have a negative impact on the employee relations environment at a time when the organisation is moving forward on a more positive footing.

5. Financial Implications

- 5.1** The removal of the bottom progression point in each scale would add a 3% increase to salary costs (excluding on costs) upon appointment to post.
- 5.2** To advance all staff currently on Grade 1 to the top point of the scale at £7 would cost approximately £140,000 and this has not been included in any financial provision.

6. Risk Analysis

- 6.1** The major risk relating to the introduction of a £7 minimum wage or to the removal of the first incremental point in each grade relates to undermining the integrity of the pay structure and to the possible impact on the Council's ability to meet its equality duties. Equal Pay is a notoriously difficult field and such a move could heighten the possibility of ongoing legal challenge. Associated risks also exist in relation to affordability and the Council's ability to demonstrate Best Value and competitiveness in establishing pay rates.

7. Conclusions and Recommendations

- 7.1** The pay and grading structure introduced in March 2009 as part of the Single Status Agreement has made significant inroads into addressing low pay within the Council and has provided for the first time a pay and grading structure that complies with equal pay legislation. This structure was developed in accordance with the national agreement on Single Status and was fully endorsed as being based on best practice principles and advice, and as being non discriminatory in design.

- 7.2** Following examination of the independent Equality Assessment undertaken and the conclusions contained therein, significant risks associated with the proposed alterations to the pay and grading structure have been identified. These risks potentially leave the Council open to ongoing legal challenge. Furthermore to implement any such change moves the Council away from the national agreement and associated guidance on Single Status implementation.
- 7.3** In light of these significant risks, the potential financial impact and the lack of budgetary provision it is therefore recommended that no alterations are made in relation to the current pay and grading structure and that Grade 1 remains at £6.32 - £6.92.

.....
David McMillan
Chief Executive
Date: 8 October 2009

Person to Contact: Tricia O'Neill, Head of Human Resources & Organisational Development
Tel: 01389 737584
tricia.o'neill@west-dunbarton.gov.uk

Paul McGowan, Pay Modernisation Manager
Tel: 01389 73765
paul.mcgowan@west-dunbarton.gov.uk

Appendices: None

Background Papers: Report to Council - 24 June 2009
Assessment of Equality Impact

Wards Affected: N/A