

CABINET**27 JULY 2020****CONSIDERATION OF GAINING REAL LIVING WAGE
ACCREDITATION**

Councillor Janette Williamson, Cabinet Member for Finance and Resources, said:

“Paying our schools staff, our local care providers, Council contractors and other key workers a Real Living Wage rate is about doing what’s right. If successful, these plans will allow the Council to work across our many partners and service areas towards doing just that.

“The Real Living Wage is an hourly rate of pay set independently and updated annually. It is calculated according to the basic cost of living in the UK, and employers choose to pay it on a voluntary basis. In April this year we were one of the first local authorities to commit to supporting our care sector workers at a time when we needed them more than ever, bringing in a Real Living Wage pay boost across the system.

“We want to extend this support and become an accredited Real Living Wage employer – ensuring that essential staff who support the Borough, day in, day out, are recognised for the important work that they do.”

REPORT SUMMARY

This report provides a summary of the work being undertaken to explore gaining accreditation with the Real Living Wage Foundation

This initiative supports all 5 components of the Wirral Council Plan as our contracts support all services.

- Safe and Pleasant Communities
- Sustainable Environment
- Active and Healthy Lives
- Brighter Futures
- Inclusive Economy

The requirement to provide the National Minimum Wage or National Living Wage is a statutory requirement and thus is already included in the Council’s contracts.

The Living Wage Foundation is an independent organisation that recognises the leadership of responsible employers who choose to pay a real Living Wage based on the cost of living, not just the government minimum.

There are three key reasons why it matters to pay the Real Living Wage

- Safeguarding workers from in-work poverty: It is only through accreditation that local authorities can ensure that all the money they spend is being used to pay people the Real Living Wage.
- Investing in the local economy: The cumulative impact of local authorities paying the Real Living Wage. When workers earn enough to live, they have more income to spend in the local economy.
- Demonstrating Civic Leadership: Strong and visible leadership is important to the growth of the Real Living Wage and there is a huge opportunity for local authorities to play an even greater role, beyond their own workers, in tackling in-work poverty in their communities.

RECOMMENDATION/S

That the Cabinet:

1. Note the activity undertaken so far in working towards gaining accreditation to the Real Living Wage Foundation and the next steps and further analysis to be undertaken.
2. Note that a further report will be submitted to the Policy and Resources Committee that recommends seeking accreditation from the RLW Foundation if the further work undertaken confirms this
3. Note that approval has already been made to the Care Sector under the Covid-19 response for providers to be sufficiently funded to pay their employees who are engaged on Wirral Council contracts the Real Living Wage

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To confirm the Council's commitment to the Real Living Wage, which is reported by the Living Wage Foundation as being good for society and for business.
- 1.2 Accredited employers are able to display the Living Wage Employer Mark to recognise their commitment to the Living Wage. This includes a plaque, merchandise and digital assets to demonstrate that they are a responsible employer to their staff and networks. The employer will also be listed on the Living Wage Foundation website and employer map, with their accreditation often recognised in the media.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 No other options have been considered at this stage and the viable options open to the Council will be set out in the report to follow exploration of the objective.

3.0 BACKGROUND INFORMATION

3.1 Real Living Wage

The Real Living Wage is an hourly rate of pay set independently and updated annually. It is calculated according to the basic cost of living in the UK, and employers choose to pay it on a voluntary basis.

The Living Wage rates are updated in November each year, during Living Wage Week. The calculation is overseen by the Living Wage Commission, an independent body drawn from leading Living Wage employers, trade unions, civil society and academics. The methodology is based on the 'Minimum Income Standard', which is determined by what members of the public think is needed for an acceptable standard of living in the UK.

In April 2016, the government introduced a higher minimum wage rate for all staff over 25 years of age, inspired by the Living Wage campaign. Currently set below the Real Living Wage (which is £10.75/hour in London and £9.30/hour across the UK at the time of this report), the government's National Living Wage (which is £8.72/hour at the time of this report) is not calculated according to what employees and their families need to live on, but rather it is based on a target to reach 60 per cent of median earnings by 2020/21.

Through accreditation, a number of local authorities are making a commitment to tackle in-work poverty in their communities. They are ensuring that all staff are paid at least the Real Living Wage and that the independently calculated rates are implemented each year to keep up with the cost of living. Accreditation also means they can use the Living Wage Employer Mark to publicly demonstrate this commitment to the Real Living Wage.

3.2 Living Wage Foundation

Progression towards accreditation requires significant engagement with the Living Wage Foundation which has already started.

As well as directly employed staff, all accredited employers must also ensure that all regular third-party contracted staff receive the Real Living Wage. The definition of 'regular' for accreditation purposes is those who work on the council's behalf for two or more hours a week, for eight consecutive weeks. These criteria try to capture outsourced workers such as cleaners and caterers, rather than occasional staff such as those who perform irregular maintenance. However, according to the Living Wage Foundation, it is best practice to pay all contracted workers the Real Living Wage.

Most low-paid jobs are concentrated in contracted areas of business, such as care, cleaning and security. So, whilst it can be challenging to implement the Real Living Wage as a criterion in procurement, it is here that the decision to pay the Real Living Wage has most impact on low-paid workers. The Living Wage Foundation can provide assistance and best practice in the navigation of these obstacles.

The Living Wage Foundation advises that Living Wage accredited local authorities have not found that they have become uncompetitive as a result of implementing the real Living Wage in their procurement processes. In most cases, contractors still compete and bid for their work as they did before.

3.3 Procurement Planning

To work towards accreditation the Council would be required to:

- Identify all relevant contracts that present opportunities for embedding the RLW, with target dates for implementation.
- Consider building the Real Living Wage into terms and conditions, qualification questionnaires and future supplier communications.
- Plan how this will be managed in consultation with the Living Wage Foundation.
- Establish which contracts would not be suited such as supply contracts.

Key steps to be undertaken

- Collate all third-party contracts and identify which fall within scope of the Living Wage licence agreement. The Living Wage Foundation will assist to review this to make sure all relevant staff are covered.
- Acknowledge that if accreditation is approved that this may result in increased contract values and this is currently being analysed
- Work with the Living Wage Foundation to establish target dates for when the Real Living Wage would be implemented
- Endeavour to include the Real Living Wage in the Councils procurement policy and as part of standard terms and conditions
- Determine how to monitor and record how many workers have their wages uplifted in each council contract.

3.4 Work already undertaken

The Living Wage Foundation explicitly acknowledges the difficulties local authorities encounter when they try to drive the Living Wage throughout their contracted adult

social care workforce and that there is no simple or cost-free fix. Nonetheless, significant progress is being made by determined councils nationwide. The Foundation does not exclude adult social care workers from its requirement that all council contractors be paid at least the Real Living Wage, but it does accept that in many cases this will be the hardest category of contractor to resolve, and likely the one which will take the longest.

To make real impact in this area, the Living Wage Foundation takes a proactive approach:

- Locally – advising on the steps required to achieve the Real Living Wage for the social care sector.
- Regionally - fostering collaboration and joint commissioning between local authorities within regions to implement the Real Living Wage where this is practicable.

The Living Wage Foundation also encourages local authorities to sign up to UNISON's ethical care charter.

On 27 April 20 approval was granted under the Covid-19 response for a temporary increase in the fee rates paid to care providers in Wirral, subject to signing a contract variation which committed providers to paying all their staff the RLW. It is anticipated that future annual fee rate consultations with care providers will include discussion on RLW rates.

4.0 FINANCIAL IMPLICATIONS

4.1 Introducing a requirement for the Council's contractors to pay the Real Living Wage may increase contractors' costs which Small and Medium Enterprises (SMEs) would have a lower capacity to bear than larger companies and thus could be disadvantaged in competitive procurements.

4.2 A survey of our top 50 contracts by value has been carried out and an active response was received by our suppliers and providers. Some key points from the survey are:

- The contracts selected for the survey excluded the Care Sector and Schools PFI
- The Survey was distributed to the top 50 contracts in terms of spend. This included contracts from all areas of the council in every directorate.
- The survey received 40 responses accounting for 30 of the 50 contracts. Some of these contracts have been awarded to multiple suppliers, so a response has been received by more than one supplier in a multiple supplier contract.
- 63% paid the Real Living Wage as a minimum.
- 37% responded that it would affect the charges to the council if they applied the Real Living Wage to their employees.
- The Survey gave contractors an opportunity to add any general comments or thoughts on the Real Living Wage and its application to their service. The majority of

the comments were generally positive, confirming that they were already paying the RLW or had already considered doing this.

- The potential financial implication will be analysed and reported in the next report to approve accreditation, if the further work highlighted in the report recommends that accreditation is sought
- Any additional cost should be mitigated by working with the Living Wage Foundation and taking a proactive approach with commissioners with the preparation of contract specifications and market engagement at pre-tender stage and the establishment of robust contract management in terms of supplier monitoring and performance.

5.0 LEGAL IMPLICATIONS

- 5.1 The position with regard to the Council as an employer is straightforward in that it can make a decision to pay at least the Real Living Wage to its employees, having regard to the Council's fiduciary duty and duties in respect of equalities and employment legislation.
- 5.2 The position with regard to having payment of the Real Living Wage as a blanket requirement of any procurement process is more difficult as it would have to be shown in each case that it is necessary and expedient to secure best value as could be the case if experience showed that contractors in a particular field of activity that did not pay the wage had recruitment difficulties which had an adverse effect on service delivery (e.g. high staff turnover).
- 5.3 Section 17 of the Local Government Act 1988 and Regulations 18 of the Public Contract Regulations 2015 requires contracting authorities to treat economic operators equally and without discrimination including discrimination in terms of the terms and conditions that are in operation by those contracts.
- 5.4 The Public Services (Social Value) Act 2011 requires that the Council, when it is commissioning public services, should think about how they can also secure wider social, economic and environmental benefits. In many cases the beneficiaries will include the workforce of contractors based outside the Borough and any benefit to the workforce of a local contractor may be offset by the increased cost to the local employer.
- 5.5 In respect of fair procurement practices and anti-competition legislation, caselaw in respect of cross-border tendering has determined that imposing a measure that sets a minimum wage on contractors or sub-contractors of a tenderer can constitute an unfair "additional economic burden that may prohibit, impede or render less attractive the provision of their services", which would make that measure unlawful. There are some measures that are justifiable, however, and these will be explored as part of the development proposals to come back to the Policy and Resources Committee.
- 5.6 Alongside discussions held with other authorities, the Government and LGA, further consideration needs to be given as to whether the steps available to the Council would practically enable it to achieve full accreditation as a Real Living Wage employer under the current requirements of the Living Wage Foundation.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 Accreditation for the Real Living Wage

The Council already pays the Real Living Wage to staff. This includes apprentices and is therefore fully compliant with this requirement

7.0 RELEVANT RISKS

- 7.1 There are no risks associated with the recommendation of pursuing accreditation with the Real Living Wage further at this stage, however, The potential financial implication will be analysed and reported in the next report to approve accreditation, if the further work highlighted in the report recommends that accreditation is sought

8.0 ENGAGEMENT/CONSULTATION

- 8.1 A survey of 50 contracts and 40 providers has been conducted to support the details of this report

9.0 EQUALITY IMPLICATIONS

- 9.1 The Council has a commitment to applying RLW to tendered contracts and this will help improve socio economic conditions for all including those with protected characteristics.
- 9.2 An Equality Impact Assessment would be carried out in respect of any formal proposals developed as part of the future report.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 There are no environment or climate implications to this report

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APPENDICES

There are no appendices to this report

BACKGROUND PAPERS

Contracts Register
Supplier Survey

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
None	