



**Meeting: Council**

**Date: 21st February 2019**

**Wards Affected: All wards in Torbay**

**Report Title:** Torbay Council Annual Pay Policy Statement including Gender Pay Gap Report and Review of Pensions Discretions

**Is the decision a key decision?** Yes

**When does the decision need to be implemented?**

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## **1. Proposal and Introduction**

- 1.1 Section 38 (1) of the Localism Act 2011 requires English and Welsh Authorities to produce a pay policy statement for each financial year. This is a statutory requirement. The pay policy statement must be approved formally by Council. The pay policy statement draws together the Council's overarching policies on pay and conditions and will publish them on the Council's Website and update them as necessary through the year.
- 1.2 The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 came into force on 6<sup>th</sup> April 2017 and requires affected bodies to publish their gender pay gap data and a written statement on their public-facing website and report their data to Government online using the gender pay gap reporting service.
- 1.3 Under the current Pensions Regulations, Torbay Council is able to exercise a range of discretions in regard to how the Local Government Pension Scheme (LGPS) is applied to its employees who are members of the Scheme.

## **2. Reason for Proposal**

- 2.1 The Annual Pay Policy Statement 2019/20 must be approved by the Council in order for the Council to be compliant with Section 38 (1) of the Localism Act 2011.
- 2.2 The Gender Pay Gap Report contains information which ensures that the Council is compliant with Gender Pay Reporting requirements under the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.

2.3 The Employers Pensions Discretions must be reviewed and approved by Council annually in line with the LGPS regulations.

### **3. Recommendation(s) / Proposed Decision**

3.1 That the Torbay Council Annual Pay Policy Statement 2019/20 as set out in Appendix 1 to the submitted report be approved for publication.

3.2 That the Torbay Council Gender Pay Gap Report, contained within the Annual Pay Policy Statement 2019/20 in Appendix 1 be approved for publication.

3.3 That the Employers Pensions Discretion set out in Appendix 2 to the submitted report be approved.

### **Appendices**

Appendix 1: Torbay Council Pay Policy Statement and Gender Pay Gap Report 2019/20

Appendix 2: Torbay Council Pension Discretions

### **Background Documents**

Copies of Torbay Councils associated Pay Policies will be made available upon request.

All current policies are held on the HR Intranet pages:-

<http://insight/humanresources>

The following documents/files were used to compile this report:-

Localism Act Pay Policy Guidance from the Local Government Association

<http://www.local.gov.uk/localism-act>

Gender Pay Gap Reporting guidance from GOV.UK and Acas:-

<https://www.gov.uk/guidance/gender-pay-gap-reporting-make-your-calculations>

[http://www.acas.org.uk/media/pdf/m/4/Managing\\_gender\\_pay\\_reporting\\_04\\_12\\_17.pdf](http://www.acas.org.uk/media/pdf/m/4/Managing_gender_pay_reporting_04_12_17.pdf)

## Section 1: Background Information

### 1. What is the proposal / issue?

The publication of the Annual Salary Statement is a statutory requirement under Section 38 (1) of the Localism Act 2011. If Council does not approve the Salary Statement then the Council will be in breach of the legislation.

The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 came into force on 6<sup>th</sup> April 2017 and requires local authorities and other public, private and voluntary sector organisations to publish their gender pay gap data. They must also publish a written statement on their public website and Government website using the gender pay gap reporting service.

See Annual Pay Policy Statement, Appendix 1, for full details.

Under the current Pensions Regulations, Torbay Council is able to exercise a range of discretions in regard to how the Local Government Pension Scheme (LGPS) is applied to its employees who are members of the Scheme. The Employers Pensions Discretions must be reviewed and approved by Council annually in line with the LGPS regulations.

See Pensions Discretions, Appendix 2, for full details of the proposed discretions.

### 2. What is the current situation?

There has been a positive change in the median figures since the 2018/19 Annual Pay Policy Statement was published which reflects a more balanced pay difference between the highest salary and the median and lowest salaries. This is due to a reduction in headcount, involving staff across various different pay grades coupled with pay rises nationally that have increased the value of the pay grades and the National Living Wage.

The Gender Pay Gap Report (appendix 1 of Pay Policy Statement) provides the standard set of calculations required to calculate the Council's Gender Pay Gap. This report shows the mean and median hourly earnings between men and women within the Council. A narrative has been provided within the report to explain the current gender pay gap, i.e. -1.12% (mean) and -1.36% (median).

Employee and employer pension contribution rates are not yet available for 2019/20 and have not been updated within the policy. This is due to some new national proposals that have been put forward, which if accepted, will see those in the lower earning bands paying less contributions. It is expected that these new rates will be confirmed imminently.

<p><b>3.</b></p>	<p><b>What options have been considered?</b></p> <p>There are no options to be considered in regard to the publication of the Pay Policy Statement including the publication of Gender Pay Gap information as these are statutory requirements under Section 38 (1) of the Localism Act 2011 and The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.</p> <p>There are no options to be considered in regard to the publication of the Pay Policy Statement as it is a Statutory requirement of the requirement under Section 38 (1) of the Localism Act 2011.</p> <p>The Employers Pensions Discretions were last approved by Council in February 2018. Although there are no changes proposed to the same, Council are required to approve these on an annual basis.</p>
<p><b>4.</b></p>	<p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</b></p> <p>The Council is statutorily required to approve these documents, and therefore it supports the corporate functions that contributes to the delivery of the Council's ambitions.</p>
<p><b>5.</b></p>	<p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>Torbay Council employees and those within the Council's Maintained Schools, including all employees who are members of the Local Government Pension Scheme.</p>
<p><b>6.</b></p>	<p><b>How will you propose to consult?</b></p> <p>Trade Unions representing staff within Torbay Council and its' Schools will be consulted at Joint Consultative meetings.</p>

## Section 2: Implications and Impact Assessment

### 7. What are the financial and legal implications?

The Council would be in breach of its statutory obligation if it does not publish its Annual Pay Policy Statement and Gender Pay Gap information in accordance with the Localism Act 2011 and The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017.

The Pay Policy Statement and associated pay policies set out the processes and procedures by which the Council pays its staff. These practices are in accordance with the Equality Act 2010 and associated employment law and so must be approved in order to maintain compliance.

### 8. What are the risks?

Non-Compliance with Section 38 (1) of Localism Act 2011, The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, see above. It is currently not determined as to whether there would be a financial penalty for non-compliance with the Localism Act however, under employment law non-compliance could result in heavy penalties for the Council (e.g. Equal pay and discrimination claims).

In regard to non-compliance with Gender Pay Gap Reporting, this is included in the explanatory note to the Regulations that states that failure to comply with the duty will constitute an "unlawful act" within the meaning of s.34 of the Equality Act 2006, which empowers the Equality and Human Rights Commission (EHRC) to take enforcement action.

In addition to the risk of enforcement action by the EHRC, the Council should also consider the potential damage to their reputation of non-compliance with the gender pay gap reporting duty.

### 9. Public Services Value (Social Value) Act 2012

The decisions will not relate to the above Act as there are no associated services or goods that need to be purchased or hired.

### 10. What evidence / data / research have you gathered in relation to this proposal?

Reference has been made to the Localism Act 2011 and supplementary guidance supplied by the Department for Communities and Local Government ("Openness and Accountability in Local Pay: Supplementary Guidance").

Advice and information has also been provided by the Local Government Association.

	<p>Reference has been made to the Gender Pay Gap Reporting guidance from GOV.UK and Acas:-  <a href="https://www.gov.uk/guidance/gender-pay-gap-reporting-make-your-calculations">https://www.gov.uk/guidance/gender-pay-gap-reporting-make-your-calculations</a>  <a href="http://www.acas.org.uk/media/pdf/m/4/Managing_gender_pay_reporting_04_12_17.pdf">http://www.acas.org.uk/media/pdf/m/4/Managing_gender_pay_reporting_04_12_17.pdf</a></p>
11.	<p><b>What are key findings from the consultation you have carried out?</b></p> <p>The key findings to date from consultation have revealed nothing significant as this is a policy that affects Torbay Council staff. Consultation takes place with the Councils' Trade Unions on behalf of its staff, the expectation is that the Council has a legally compliant pay policy in place that is fair and transparent.</p> <p>Consultation regarding the findings of the Gender Pay Gap Report will be ongoing with Trade Unions as part of the action plan.</p>
12.	<p><b>Amendments to Proposal / Mitigating Actions</b></p> <p>Feedback will be sought from Trade Unions as this policy and changes affect Torbay Council staff. Any changes or mitigating actions put forward will be fully considered.</p>

## Equality Impacts

13.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people			Employers Pensions Discretions affecting employees who are 55 years and above. A neutral impact as the proposal is that the discretions will not change since they were last reviewed in 2018.
	People with caring Responsibilities			
	People with a disability			
	Women or men	An Equality Impact Assessment has been provided separately for the Council's Pay and Grading structure 2019 – this indicates that men and women are both positively impacted by the new pay and grading structure.		
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			
	Religion or belief (including lack of belief)			

	People who are lesbian, gay or bisexual		
	People who are transgendered		
	People who are in a marriage or civil partnership		
	Women who are pregnant / on maternity leave		
	Socio-economic impacts (Including impact on child poverty issues and deprivation)		
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	<b>Cumulative Impacts – Council wide</b> (proposed changes elsewhere which might worsen the impacts identified above)	Neutral, no public health impact identified as a result of proposals.
<b>14.</b>	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)		
<b>15.</b>	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)		