

Meeting: Cabinet/Council **Date:** 22 February 2022 / 3 March 2022

Wards affected: All wards in Torbay

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

When does the decision need to be implemented? By 30th March 2022

Cabinet Member Contact Details: Christine Carter, Cabinet Member for Corporate and Community Services, (01803) 207087, Christine.Carter@torbay.gov.uk

Director/Divisional Director Contact Details: Anne-Marie Bond, Chief Executive, (01803) 207160, Anne-marie.bond@torbay.gov.uk

1. Purpose of Report

- 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, and the pay policy statement must be approved formally by Full Council. The pay policy statement draws together the Council's overarching policies on pay and conditions and will be published on the Council's Website.
- 1.2 The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 requires the Council to publish our gender pay gap data and provide a written statement on our public-facing website and report our data to Government.
- 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 and its benefits

- 2.1 The Annual Pay Policy Statement 2021/22 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

That Council be recommended to approve:

- 1) the Torbay Council Annual Pay Policy Statement 2022/23 as set out in Appendix 1 to the submitted report be approved for publication;
- 2) the Torbay Council Gender Pay Gap Report, contained within the Annual Pay Policy Statement 2022/23 in Appendix 1 be approved for publication; and
- 3) the Employers Pensions Discretions set out in Appendix 2 to the submitted report be approved for publication.

Appendices

Appendix 1: Torbay Council Pay Policy Statement and Gender Pay Gap Report 2022/23

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 Council's MyView system:-

<https://myview.torbay.gov.uk/dashboard/dashboard-ui/index.html#/landing>

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

Localism Act Pay Policy Guidance from the Local Government Association

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

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

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

https://archive.acas.org.uk/media/4764/Managing-gender-pay-reporting/pdf/Managing_gender_pay_reporting_07.02.19.pdf

1. Introduction

- 1.1 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.
- 1.2 The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 requires all 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.
- 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. 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 existing and recommended discretions.

2. Options under consideration

- 2.1 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.
- 2.2 There are no options to be considered in regard to the publication of the Pay Policy Statement as it is a Statutory requirement of Section 38 (1) of the Localism Act 2011.
- 2.3 The Employers Pensions Discretions were last approved by Council in February 2021. Although there are no changes proposed, Council are required to approve these discretions on an annual basis.

3. Financial Opportunities and Implications

- 3.1 There are no financial opportunities. The implications are in relation to financial penalties that the Council could face for non-compliance, for example, under equal pay legislation.

4. Legal Implications

- 4.1 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.
- 4.2 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 complied with.

5. Engagement and Consultation

- 5.1 Trade Unions representing staff within Torbay Council will be consulted at Joint Consultative meetings.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 There are no associated services or goods that need to be purchased or hired under these proposals.

7. Tackling Climate Change

- 7.1 There are no climate change implications associated with these proposals.

8. Associated Risks

- 8.1 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).
- 8.2 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.
- 8.3 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. Equality Impacts - 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 2021.
People with caring Responsibilities			
People with a disability			
Women or men	<p>An Equality Impact Assessment was undertaken for the Council's Pay and Grading structure in 2019 – this indicated that men and women are both positively impacted by the new pay and grading structure.</p> <p>The current gender pay gap is narrow – this indicates that the Council's pay and grading structure, associated pay policies and processes are fair and equitable for men and women.</p>		
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			
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)	The current gender pay gap is narrow – this indicates that the Council's pay and grading structure, associated pay policies and processes are fair and equitable for men and women. As a large employer, this assists in the recruitment and retention of local people.		
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			Neutral, no public health impact identified as a result of proposals.

10. Cumulative Council Impact

10.1 None.

11. Cumulative Community Impacts

11.1 None.