

CHESHIRE FIRE AUTHORITY

MEETING OF: FIRE AUTHORITY
DATE: 12TH FEBRUARY 2020
REPORT OF: DIRECTOR OF GOVERNANCE AND COMMISSIONING
AUTHOR: ANDREW LEADBETTER

SUBJECT: ACCREDITATION AS A LIVING WAGE
EMPLOYER

Purpose of Report

1. To allow Members to determine whether to pursue accreditation as a Living Wage Employer.

See report at Item 10 of the Agenda which includes information about third party contractors and the potential financial impact of accreditation. The report at Item 10 is not publically available as it includes information relating to an individual and information relating to financial or business affairs.

Recommended that Members:

- [1] Determine whether to pursue accreditation as a Living Wage Employer.

Background

2. On the 26th April 2017 a report was presented to the Fire Authority to allow Members to determine the Authority's policy in relation to the Living Wage.
3. Members discussed the options within the report and resolved that the Authority should pay staff (including apprentices) no less than the Living Wage.
4. Members also resolved that the Authority would, where appropriate, encourage other employers to pay the Living Wage. With this in mind, the Authority would ensure that, wherever possible, the procurement activity that it carried out involved suitable engagement with contractors about the Living Wage.

Information

The Living Wage

5. The Living Wage (LW) is an hourly rate of pay set independently and updated annually by the Living Wage Foundation (the Foundation). Information about the Foundation is attached as Appendix 1 to this report.

6. The Living Wage is voluntary and is based on the real cost of living in the UK and London. It is adjusted every October/November. At £9.30 it is significantly higher than the National Minimum Wage (NMW) and the National Living Wage (NLW) and it applies to all workers over 18. It is paid by over 5,000 UK businesses, including five UK fire and rescue services. The Living Wage Foundation's website shows five Living Wage Employers in Cheshire:
 - Active Cheshire
 - Cheshire Constabulary
 - Citizens Advice Cheshire West
 - Police and Crime Commissioner for Cheshire
 - West Cheshire Food Bank
7. A survey of businesses who pay the Living Wage found that it had:
 - Improved the reputation of the business
 - Had a positive effect on staff wellbeing and team morale
 - Increased motivation and retention rates for staff
 - Reduced absenteeism
 - Improved the quality of work
 - Improved relations between managers and their staff
8. A table is attached as Appendix 2 to this report which contains details of the current statutory and nationally agreed minimum hourly rates of pay.

Living Wage Accreditation

9. Employers can apply to become accredited with the Foundation. There is an online application and a fee is payable. If successful they are known as Living Wage Employers. A licence is issued which is signed by both the Foundation and the Living Wage Employer.
10. Living Wage Employers display the Living Wage Employer logo on their materials and in their buildings and their names are included in the publicly available list of Living Wage Employers, visible to prospective employees, customers and grant makers.
11. Living Wage Employers are given guidance on best practice on how to implement the rate increases and work with third party contractors.
12. In order to become a Living Wage Employer, an organisation must:
 - (a) pay the Living Wage to all directly employed staff and
 - (b) have a plan to secure the payment of the Living Wage to certain staff employed by relevant third party contractors.
13. The staff employed by relevant third party contractors that are referred to above are those that work regularly on a Living Wage Employer's premises for two or more hours a day, in any day of the week, for eight or

more consecutive weeks of the year. Typically, cleaning and catering staff are included and grounds maintenance staff are not.

14. A Living Wage Employer is not necessarily expected to secure the payment of the Living Wage by third party contractors immediately upon accreditation. However, the licence will include milestones concerned with relevant third party contractors that the Foundation will expect the Living Wage Employer to meet.

The Living Wage and Cheshire Fire and Rescue Service Staff

15. All staff are paid in accordance with nationally agreed pay structures.
16. The lowest hourly rate for operational (Grey Book) staff is the trainee firefighter rate of £10.67 per hour. The lowest hourly rate for non-operational (Green Book) posts is the bottom of Scale 2 (point 11), which is currently £9.36. No one is currently paid at that point.
17. The Authority has apprentices who are paid the Living Wage hourly rate of £9.30.
18. All staff are paid at or above the Living Wage and the Authority therefore satisfies the first requirement for accreditation.

The Living Wage and Third Party Contractors

19. The second requirement for accreditation is concerned with relevant third party contractors and the payment of the Living Wage. This is more difficult to achieve due to the constraints that apply to public sector procurement.
20. Public sector bodies have for some time included provisions in their procurement documentation to emphasise the legal requirement for contractors to pay the mandatory wage rates. However, there is no legal requirement to pay the Living Wage (which is voluntary) and it is understood that in spite of a great deal of interest and deliberation no public sector bodies have gone as far as requiring the payment of the Living Wage by all third party contractors, yet.
21. There have been some conflicting EU cases concerned with the Living Wage and it is possible that in limited circumstances the courts might uphold a provision requiring a contractor to pay the Living Wage. However, this remains an area of uncertainty and is not without its practical difficulties.
22. It is highly likely that procurement practices will change in the relatively near future as the UK withdraws from the European Union. Therefore, it makes sense to keep a watching brief on the use of Living Wage provisions in procurement. In the meantime is it possible to make changes to procurement practices that could have an impact. Public bodies are introducing social value elements into their procurements, which reference the Living Wage. The Authority will receive a future report on ethical procurement and social value.

23. In order to become accredited, employers must have an agreed plan in place for phased implementation of the Living Wage in relation to the staff of relevant third party contractors. For the Fire Authority this involves cleaning staff and catering staff.

Financial Implications

24. Please see report at Item 10 of the Agenda for information about the Authority's cleaning and catering contracts. Members will see that the additional annual cost of securing the payment of the Living Wage to cleaning and catering staff employed by third party contractors would be in the region of £32k to £35k (at current rates paid from 1st April 2020). Growth of £35k has been included in the budget to fund this.
25. There is a fee for accreditation of £480 plus VAT.

Legal Implications

26. The Authority is not required by law to adopt and implement the Living Wage but has chosen to do so.
27. If the Authority decides that it wishes to become a Living Wage Employer it could, through negotiation, secure the payment of the Living Wage by incumbent third party contractors. Currently, the provisions that govern transfers of staff (TUPE) would protect the terms and conditions of staff if a new contractor became responsible for cleaning and/or catering. Whether these provisions will remain post-Brexit is unclear. Current procurement law and practice does not appear to allow public bodies to mandate the payment of the Living Wage, but this position may change as a result of Brexit.

Equality and Diversity Implications

28. The Living Wage is widely viewed as a tool to reduce inequality around wealth and income. Women and those with some disabilities are assumed to be among the groups most likely to benefit as they are likely to be in receipt of lower incomes. Certainly, within Cheshire Fire and Rescue Service, those on lower 'green book' pay scales are more likely to be female than male. Cleaning staff are predominantly female.

Environmental Implications

29. There are no environmental implications.

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BACKGROUND PAPERS: Fire Authority Report 26th April 2017