

Report of	Assistant Director of Corporate and Improvement Services	Author	Richard Clifford ☎ 507832
Title	Report of Urgent Decision taken under Rule 22 of the Cabinet Procedure Rules – Revised Pay Award 2022-23		
Wards affected	Not Applicable		

1. Executive Summary

1.1 This report provides details of a decision taken by the Leader of the Council in respect of the revised pay award for 2022/23. In view of the timescales involved, this decision could not await this Cabinet meeting and the decision was therefore taken by the Leader of the Council pursuant to the provisions of Cabinet Procedure Rule 22. A decision taken in these circumstances must be reported to the next meeting of Cabinet.

2. Recommended Decision

2.1 To note the decision taken by the Leader of the Council in respect the revised pay award 2022/23 under the urgency provisions in Cabinet Procedure Rule 22.

3. Reason for Recommended Decision

3.1 A decision taken under Rule 22 of the Cabinet Procedure Rules must be reported to the next meeting of Cabinet.

4. Alternative Options

4.1 None.

5. Background Information

5.1 The report setting out the decision on the revised pay award for 2022-23 is attached. The Monitoring Officer, as Proper Officer, was satisfied that the matter was urgent and that the decision needed to be taken before the next Cabinet meeting. The decision was therefore taken by the Leader of the Council in accordance with rule 22 of the Cabinet Procedure Rules. The decision was published on 22 December 2022. In view of the urgency, the call in provisions did not apply to the decision.

5.2 As the decision was a key decision, and the normal arrangements around the publication of a key decision could not apply, the Chair of the Scrutiny Panel was consulted and indicated that, in accordance with the provisions of Rule 31 of the Access to Information Procedures Rules, he was content that in the circumstances the decision could not be deferred.

5.3 The decision is reported to Cabinet as is required by the Procedure Rules.

6. Standard References

6.1 There are no particular references to the Strategic Plan; consultation or publicity considerations or financial; community safety; health and safety or risk management implications relating to this report. The implications relating to the decision on the pay award are set out in the attached report.

Cabinet

Item

16 November 2022

Report of	Chief Executive	Author	Jessica Douglas. Strategic People and Performance Manager
Title	Revised Pay Award 2022 - 23		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report sets out the rationale and background for the proposal to review the 2022-23 pay award paid to council staff from 1 April 2022.
- 1.2 The 2022-23 pay award was negotiated before the cost of living and energy price increases. Staff voted to accept the 2022 pay offer with a recommendation from UNISON to accept.
- 1.3 Since the pay award was agreed, the economic outlook has changed, and the National Joint Council (NJC) offered a higher pay increase than the council's pay award.
- 1.4 UNISON regional branch submitted a claim for the council to apply the NJC pay award of £1925 for each spinal column point. Despite on-going negotiations between both sides, agreement could not be reached. UNISON balloted their members on strike action.
- 1.5 To settle the pay dispute and to avoid disruption to core services, the proposal is to apply the £1925 increase to spinal column points 4 to 32 at an additional cost of £700k.
- 1.6 In accordance with Cabinet Procedure Rule 22(1), the Strategic Governance Manager considered that this matter was urgent in order to resolve the pay dispute and that the Leader of the Council as Chair of Cabinet should make an urgent decision to implement the pay award.

2. Recommended Decision

- 2.1 To apply the National Joint Council (NJC) £1925 increase on spinal column points 4 to 32 from 1 April 2022 at an additional cost of £700k.

3. Reason for Recommended Decision

- 3.1 The 2022-23 pay award was negotiated with UNISON and was effective from 1 April 2022. Since the pay award was agreed, the increase in the cost of living and energy prices has been unprecedented and has impacted on the disposable income for all staff but particularly the lower paid.
- 3.2 The National Joint Council (NJC) pay award for 2022-23 has recently been agreed and represents a significantly higher pay increase than the award paid to council staff locally.

- 3.3 UNISON requested the council to re-open negotiations following the NJC pay award and the cost-of-living increase and balloted staff for industrial action on the 24 November when agreement could not be reached.
- 3.4 UNISON have indicated that the pay dispute will be resolved if the council agreed to pay £1925 to staff on spinal column points 4 to 32 from 1 April 2022 in line with the NJC pay award.
- 3.5 As a good employer, the council acknowledges the impact of the increase in the cost of living on its employees and believes the decision to increase pay will support staff to cover their living costs. It will support staff retention and allow the continuation of critical services to be provided by avoiding strike action.

4. Alternative Options

- 4.1 To not apply the NJC pay award 2022-23 to the council's pay scales. There is a high risk that UNISON members would vote to take industrial action, severely impacting council core services.

5. Background Information

- 5.1 The Council negotiates pay with UNISON at a local level. The 2022-23 negotiated pay award provided for a 3% increase for the lowest paid staff above the real living wage pay rate at spinal column points 14 to 18 and a 2.5% increase for staff on spinal column points 19 and above.
- 5.2 On 25 July 2022, the Employers Side of the National Joint Council (NJC) for England, Wales and Northern Ireland, made a final pay offer to local government employees. The pay offer was a flat rate increase on all spinal column points of £1,925 to be implemented from 1 April 2022. This offer has been accepted and will be implemented in December's pay, backdated to 1 April 2022. The NJC pay award is significantly higher than the pay award paid to council employees this year
- 5.3 The UNISON regional pay negotiator contacted the council on 24 August 2022 requesting to re-open pay negotiations for 2022-23 and submitted a claim to pay the Council's employees the £1925 increase on every spinal column point in line with the NJC pay award for 2022/23.
- 5.4 The Council's response was to advise UNISON that the 2022-23 pay award was negotiated and agreed in good faith and there was no requirement to re-open negotiations. Additionally, the pay award 2022-23 had been within the agreed budget and any increase would provide an in-year pressure that would have to be funded.
- 5.5 On 7 November, UNISON notified Pam Donnelly as Head of Paid Service of its intention to ballot members for industrial action on 24 November as the pay dispute had not been resolved and issued a press release.

- 5.6 Officers continued to meet with UNISON with a view to avoiding industrial which would severely impact on vital services if strike action were to take place. Two offers were made.
- to apply the NJC £1925 increase to staff above the living wage on spinal column points 14 – 32 from December 2022. Staff above spinal column point 32 are already paid on the same rates or slightly more than NJC employees on the same spinal column points.
 - An improved offer to back date the NJC £1925 pay increase to September 2022 for staff on spinal column points 14 to 32.
- 5.7 The offers were rejected by UNISON on the basis that it did not meet their claim:
- to apply the NJC pay increase on each spinal column point of £1925 for staff employed on spinal column points 14 to 32 from 1 April 2022.
 - Staff on spinal points 4 to 13 (living wage rate) had not been awarded the same payment of £1925 that staff on spinal points 4 to 13 on NJC grades and other staff in the council had been awarded.
- 5.8 Subject to an urgent decision process, and in consultation with the Council's Leader and Deputy Leader, the offer to UNISON has been made to settle the pay dispute:
- to implement the NJC £1925 increase on spinal column points 4 to 32 from 1 April 2022.
- 5.9 This offer is in line with NJC employers and other local authorities in Essex who are outside of NJC and negotiate pay locally but have also agreed to implement the NJC £1925 pay award increase.
- 5.10 As the 2022-23 pay award has already been paid, staff will receive an additional payment which will take the overall increase to £1925 this year.
- 5.11 The pay award creates a significant pressure on the in year and future years' budget. The council will do everything to mitigate the impact on services to residents and staffing levels.
- 5.12 In 2022/23 the cost will be funded by using unspent carry-forwards from previous financial years. There are currently no specific proposal to fund the cost in future years. Funding will therefore need to be determined in setting the Council's 2023/24 revenue budget.

6. Equality, Diversity and Human Rights implications

- 6.1 The proposed pay award will be applied equally to staff on spinal column points 4 to 32. There will not be any detrimental impacts in relation to gender, gender reassignment, disability, sexual orientation, religion or belief, age and race/ethnicity.

7. Strategic Plan References

- 7.1 Staff play a key role in delivering the themes and priorities in the Strategic Plan. This revised pay award is put forward as a fair agreement that recognises the current economic climate and cost of living challenges.

8. Consultation

- 8.1 The proposal to pay the NJC pay award follows a pay negotiation process with UNISON on behalf of their members.

9. Publicity Considerations

- 9.1 This decision may generate some public and press interest. We will respond to enquiries about it by setting it in the context of our overall budget position.

10. Financial implications

- 10.1 Financial Regulation 3.6.6 covers authority to exceed an approved budget. It states:

Any proposal which, if adopted, is likely to involve expenditure or future commitments not provided for in the existing revenue budget shall be the subject of a special report to the Cabinet. This report shall detail all the financial consequences and state whether sufficient financial provision is available in the budget for the proposal in current and future years and what action is proposed if such provision is not available.

- 10.2 The general fund impact of the proposed award would be circa £700k in 2022-23, and there would be additional cost in future years. This amount is comprised of £450k for implementing the £1,925 on SCP's 14 to 32, and £250k for the backdating of the living wage increase to 1st April. The quarter 2 in-year forecast outturn position already allows for the living wage increase from October 2022. The funding for the proposed increase should be determined prior to its approval.
- 10.3 There is no provision in the 2022-23 general fund revenue budget to revise the pay award. The additional cost would therefore require the use of reserves. The revenue budget is currently reporting a £400k overspend at Q2 (7 December 2022 Governance and Audit Committee). This forecast does not allow for the proposed award.
- 10.4 Cabinet has yet to consider proposals to close the budget gap in 2023-24 and future years. The additional cost of the award ignoring inflation would be £450k in 2023-24 and £2.250m across the 5 years of the MTFF. The award would increase the budget gap in all years of the MTFF. The 23/24 cost of the living wage award is already included in our MTFF inflation assumptions.
- 10.5 At its 6 July 2022 meeting Cabinet agreed a budget assumption of 4% for pay in 2023-24 (£800k) The award if made would be a first charge on this provision unless alternative funding was identified.

11. Other Implications

- 11.1 There are no particular health, wellbeing and community safety; health and safety, risk management implications or environmental and sustainability implications.

