

Agenda Item No:

Report To: Cabinet

Date of Meeting: 21 March 2024

Report Title: Pay Policy Statement- Annual Review

**Report Author &
Job Title:** Joy Cross
HR Manager

**Portfolio Holder
Portfolio Holder for:** Cllr Dawnie Nilsson - Cabinet Member for People & Services



Summary:

The Localism Act 2011 requires the Council to publish an Annual Pay Policy Statement; this report will review the current Pay Policy statement, ensuring it is up to date and reflects the Council's approach to pay.

The Council also takes this annual review as an opportunity to review the Ashford Apprentice Wage Allowance (AAWA). This report therefore updates the position in relation to Apprentice pay for 2024/25.

The Council has a strong record in appointing apprentices and currently employs over 20 staff who are completing apprenticeship qualifications.

In April 2024 National Living Wage (NLW) and National Minimum Wage (NMW) will see their largest every increase in cash terms; the first time that levels increase by more than £1.

Key Decision: YES

**Significantly
Affected Wards:** None

Recommendations: That Cabinet:

- I. Note that Council is asked to approve the updated Pay Policy Statement.
- II. Approve the continuation of the Ashford Apprentice Wage Allowance at a rate of 20 pence per hour over the National Minimum Wage rate applicable to the age of the apprentice.

Policy Overview: Sections 38 to 43 of the Localism Act 2011 require local government bodies to prepare a pay policy statement. These statements must articulate an authority's own policies towards a range of issues relating to the pay of its workforce, particularly senior staff and its lowest paid employees.

Financial Implications: No additional financial impact is proposed.

Legal Implications The Council is required to review and publish its Pay Policy Statement on an annual basis.

Equalities Impact Assessment The application of the Pay Policy will not result in any detrimental impact on any particular group of staff.

Other Material Implications: n/a

Exempt from Publication: **NO**

Background Papers: n/a

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Report Title: Pay Policy Statement- Annual Review

Pay Policy Statement: Introduction & Background

1. The pay policy statement must be reviewed and approved each year by Full Council.
2. There are a number of statutory requirements relating to pay accountability in the Localism Act that need to be taken into account as well as a catch-all within the Act that states that members must have regard to any guidance issued or approved by the Secretary of State.
3. The statement encompasses both the statutory requirements as well as the 'broader' elements of guidance.
4. Pay policy statements may be amended during the course of a financial year to reflect changes or developments in an authority's pay policy. However, section 39(5) of the Act requires that amendments can only be made by resolution of the full Council, or a meeting of members, and that any amended statement must be published as soon as is reasonably practicable.
5. We are required to publish the ratio between the highest paid and the median salary figure. The ratio is currently 4.42:1 this is within our stated position of maintaining a pay multiple of 5 or less (paragraph 12 of the proposed pay policy statement attached).
6. There are no material changes to the Pay Policy Statement.

Ashford Apprentice Wage Allowance

7. Apprentices are engaged by employers to gain practical training in a job combined with study. The status of their employment is reflected by the fact that the National Living Wage rate is not applicable to them in the first year of their apprenticeship.
8. The Low Pay Commission reported that young people occupy a vulnerable place in the labour market and are likely to be hit harder by an economic downturn¹.
9. The 2024 National Minimum Wage rate for apprentices aged 16 to 18 and those aged 19 or over who are in their first year is £6.40 per hour. All other apprentices are entitled to the statutory National Living Wage rates as applicable to their age.
10. Our Ashford Apprentice Wage Allowance AAWA aims to provide our apprentices with a pay rate that is "better" than the statutory NLW/NMW rate applicable to the age of the apprentice and irrespective of whether the apprentice is in their first year.

¹ National Minimum Wage Low Pay Commission Report 2022 – January 2023

11. The Council's stated commitment in respect of pay rate for apprentices is:

“The council is committed to making apprenticeships accessible to all by paying a rate applicable to the apprentice’s age that aims to be better than the respective statutory National Living Wage rates.”

12. The current AAWA is 20 pence per hour above the respective NLW rates. No changes are proposed to the AAWA.

13. We currently employ 21 individuals who are completing an Apprenticeship; some of whom are completing a higher apprenticeship, i.e. a level 7 apprenticeship for Planning Graduates, and are appointed to roles at a higher grade.

Summary

14. For ease of reference the following tables detail the different pay rates referred to earlier in this report.

15. It is worth noting that NLW and NMW age brackets have been amended (removing the 23 and over category, removing the 21-22 category and changing the applicable age for NLW to over 21s) :

	Age Band	Rate from 01 April 2023	Rate from 01 April 2024
National Living Wage	23 and over	£10.42	-
	21 and over	-	£11.44
National Minimum Wage	Aged 21-22	£10.18	-
	18-20	£7.49	£8.60
	Under 18	£5.28	£6.40
	Apprentices under 19 / over 19 and in the first year of their apprenticeship	£5.28	£6.40

National Apprentice Wage and Ashford Apprentice Wage Allowance					
	Age Band	National minimum rates from April 2023	Ashford rates for 2023/24	National minimum rates from April 2024	Proposed Ashford rates for 2024/25
	Aged 23+	£10.42	(+20p) £10.62	-	-
	21-22	£10.18	(+20p) £10.38	-	-
	Aged 21 and over	-	-	£11.44	(+20p) £11.64
	18-20	£7.49	(+20p) £7.69	£8.60	(+20p) £8.80
	Under 18	£5.28	(+20p) £5.48	£6.40	(+20p) £6.60

Implications and Risk Assessment

16. Reviewing and publishing the Pay Policy Statement will ensure that we are compliant with the requirements of the Localism Act 2011.
17. It is noted that the 2024 NMW and NLW hourly rates represent the largest ever year on year rate increase; for the first time, rates have increased by more than £1. The cash value of NMW and NLW rates are increasing year on year as is the extent to which a family can be meaningfully sustained. If this trend continues we are likely to need to revisit our approach to the AAWA and consider if it is still necessary.

Equalities Impact Assessment

18. The AAWA benefits the lowest paid groups of staff within the Council regardless of any protected characteristic. The Council's Pay Policy ensures that our staff are remunerated appropriately, equitably and legally.

Consultation Planned or Undertaken

19. This report together with the proposed pay policy statement have been considered at the Joint Consultative Committee on 15 February 2024; where the report was received and noted. Minutes of the committee are available for Cabinet's reference if required.

Other Options Considered and Reasons for Supporting Option Recommended

20. Other options included withdrawing the AAWA but this was not thought to be consistent with the Council's desire to show its commitment to its lowest paid staff and support youth employment in the borough.

Next Steps in Process

21. Once approved by Council the 2024/25 Pay Policy Statement will be published on the transparency section of the Ashford Borough Council website.

Conclusion

22. The pay policy statement reflects our current approach to pay and satisfies the requirements of the Localism Act.
23. The Ashford Apprentice Wage Allowance provides a very positive statement that the Council is committed to making apprenticeships accessible to all and encourages its local people to gain worthwhile careers by paying a rate that is comparable with entering any other form of employment; which in turn will benefit the local economy.

Portfolio Holder's Views

24. *Ashford Borough Council is a large local employer and sets a positive example for good employment practices that others can emulate. We have a strong*

record of providing accessible and good quality apprenticeships that develop local talent.

Cllr Nilsson

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Ashford Borough Council

Pay Policy Statement

Financial Year 2024/25

Introduction

ABC is a large and diverse organisation providing a range of statutory and other services to a local community with a population of approx. 132,700. It is responsible for managing a combined annual capital and revenue spend of £200 million.

To ensure the Council is effectively led and efficiently managed, it must be able to attract and retain a range of high calibre staff in a competitive job market. The value and composition of the remuneration package offered to senior staff is a key factor in enabling the Council to attract, recruit, motivate and retain staff with the skills sets required to deliver the Council's objectives and aspirations, which in turn have a significant impact on the lives of local residents.

Notwithstanding the statutory requirement to produce and publish this policy, the Council recognises the importance and benefits of applying a transparent policy to ensure that its staff are remunerated appropriately, equitably and legally.

Pay Policy

- 1 This policy statement is made in accordance with Section 38 (1) of the Localism Act 2011. The Act requires the authority to set out its policies for the financial year relating to:
 - (a) the remuneration of its chief officers,
 - (b) the remuneration of its lowest-paid employees and
 - (c) the relationship between:
 - i. the remuneration of its chief officers, and
 - ii. the remuneration of its employees who are not chief officers.

- 2 **Definitions:**
 - (a) The Definition of '**Chief Officer**' in the Localism Act reflects that in the Local Government and Housing Act 1989 and so is wide enough to include not only the Head of Paid Service, Monitoring Officer and other statutory and non-statutory Chief Officers but also those senior officers who report directly to them. It is not considered necessary to extend the scope of this definition due to any particular local circumstance or reward structure.

 - (b) A '**Lowest paid employee**' is an employee who is paid on the lowest pay grade used by the council. The definition does not include postholders engaged in apprenticeships or other job creation schemes.

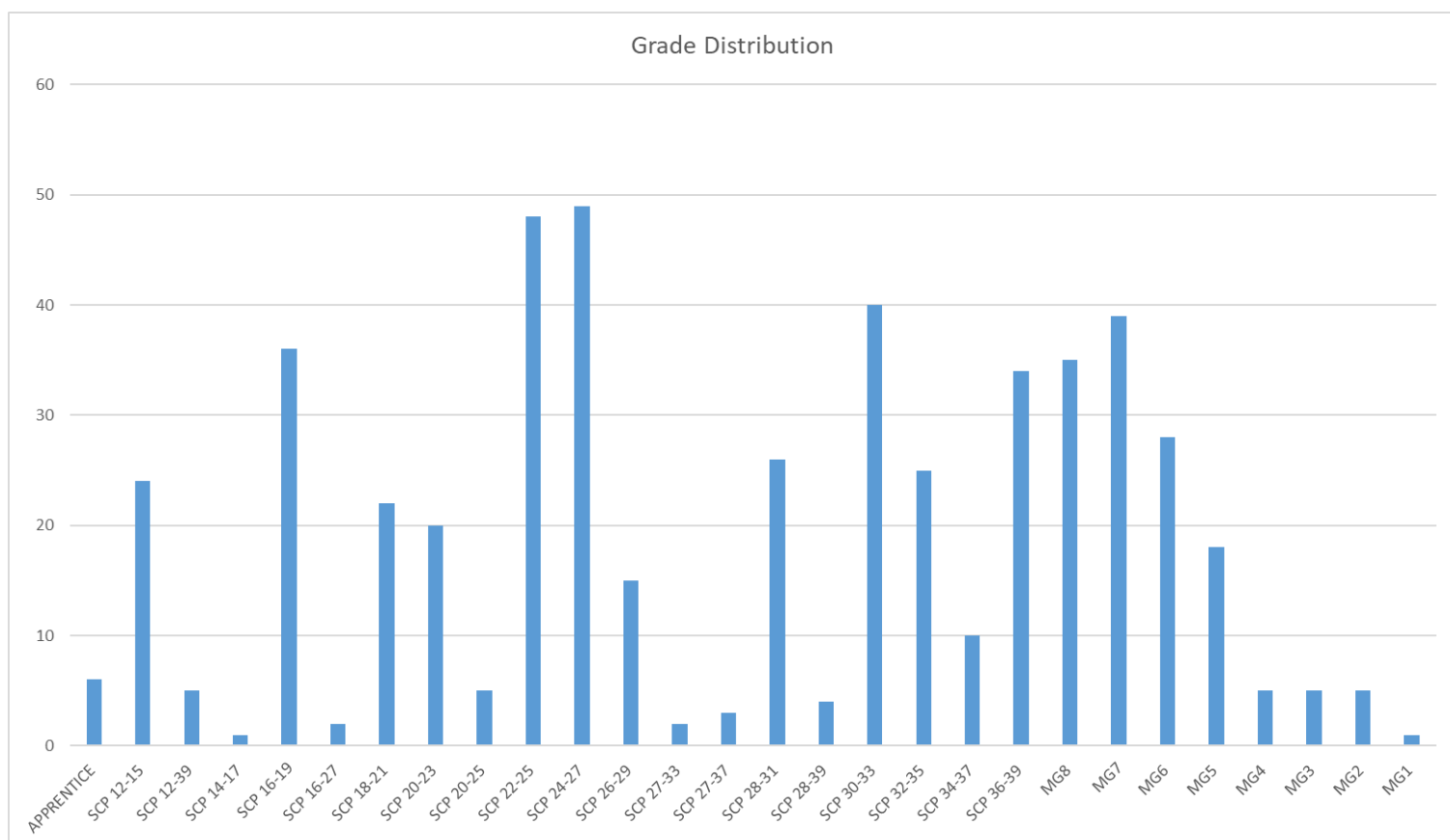
- 3 The policy statement will be reviewed and approved annually by Members and published on the transparency section of the Ashford Borough Council website together with the pay data published in line with the code of recommended practice on data transparency. Data on pay for individuals employed under a

'contract for services' (opposed to contract of employment) can be found under the data on spend.

- 4 The Council's pay framework has been in place for many years and the grade for each role is determined by a job evaluation scheme developed by Inbucon Pay Consultants.
- 5 The basic grade of all officers is determined by job evaluation process. Pay and all other elements of the remuneration package for the Chief Executive (Head of Paid Service), Deputy Chief Executive, as well as other Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers are approved by Members as part of the recruitment process and other formal approval process such as restructuring reports. The remuneration packages for all other roles are approved by senior managers.
- 6 The incremental progression for all roles, including Chief Officer roles, are automatic unless there are formal concerns over capability.
- 7 All council employees are paid at a rate above National Living Wage and National Minimum Wage. Cost of living pay awards are considered on an annual basis and take account of market forces, economic climate measures of inflation and budgetary position. The Council is not subject to national pay bargaining. Pay awards are negotiated locally with UNISON and subject to approval by Members.
- 8 Apprentices are engaged to gain practical training in a job combined with study. The Council is committed to making apprenticeships accessible to all and aims to pay a rate that is better than the respective Statutory National Minimum Wage rates; the Ashford Apprentice Wage Allowance (AAWA) is currently set at 20 pence per hour higher than these rates. The AAWA is reviewed annually and applied to those employed by the Council on an apprenticeship.
- 9 Grades MG1 and MG2 have two additional discretionary incremental points that can be applied for recognition of performance, or as part of a retention package. These points are not automatically applied to all MG1 or MG2 roles, but if they are, they require confirmation from the officer's manager that there has been exceptional performance and the increment should be awarded.
- 10 The organisation's Returning Officer for elections receives election fees in addition to their regular salary. These fees are set by the Cabinet Office for national elections and referendums; or for borough and county elections through a countywide arrangement. The fees vary according to the election taking place. Any election fees paid during the year are included in the salary figure published in the Council's annual statement of accounts.
- 11 We are required to publish pay related information. This includes the Code of Recommended Practice for Local Authorities on Data Transparency requirements to publish a Pay Multiple and information on senior salaries. The Pay Multiple is the ratio between the highest paid salary and the median average salary of the whole authority's salaries.
- 12 The current ratio between the highest paid employee and the median earnings across the organisation is **4.42:1** (excluding Returning Officer fees as these are

determined by the Cabinet Office, or through a countywide arrangement. The fees are only paid in the event of an election). The Council intends to maintain a pay multiple of 5 or less i.e. the highest paid employee is paid no more than 5 times the median salary which is £31,998. The chart below shows the current dispersal of grades amongst the Council's employees.

- 13 Ashford pay grades are determined through job evaluation and reflect the breadth of impact the role has for example: the level and complexity of advice given by the post-holder as well as the decisions made, the qualifications required to carry out the role, the level of autonomy the post-holder has as well as the level of internal and external contacts routinely made by the post-holder.



- 14 Salary information for senior staff is published annually on the transparency section of the Council's website and total remuneration packages for Chief Officers are published in the Council's annual statement of accounts also available on the Council's website.
- 15 The Chief Executive and Deputy Chief Executive receive an annual mileage allowance to compensate for up to 3,000 work related miles travelled within Kent and are not allowed to submit mileage claims for the first 3,000 miles travelled in Kent.
- 16 Posts may attract a subsidised lease car or cash alternative. Entitlement is usually determined as part of the recruitment process and the entitlement is intended to assist the officer in carrying out their duties or, in some cases, as a recruitment tool.

- 17 All officers are entitled to be reimbursed for legitimate expenses incurred in the course of their duties. Limits are laid out in the conditions of service and all expense claims must be accompanied by receipts.
- 18 The Council does not have a performance related pay scheme or a bonus scheme. Managers do have the ability to make honorarium payments to any level officer in the following circumstances:
- Covering the full/partial duties of a more senior post (other than for annual leave)
 - Taking on additional duties/responsibilities for a limited period
 - Taking on additional responsibilities e.g. project work which would not normally fall within the employee's job description
 - Taking on additional workload, which is not at an additional level of responsibility but which warrants financial recognition
 - One-off merit payments in recognition of exceptional performance.

Where the request for the payment falls outside of the above criteria the Head of Personnel and Development will take the request to Management Team for discussion.

- 19 The Council does have a market supplement scheme to address market pressures that cause recruitment and retention difficulties. Market supplements are applied in exceptional circumstances and any proposed payments for a Management Team post must be approved by Members. For all other roles Management Team is able to give approval.
- 21 If a Chief Officer, or any other officer, chooses to end their employment with the authority there are no termination benefits payable. If the council terminates an officer's employment then the Council's policy on the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 may apply.
- 22 The Council will comply with obligations under the Exit Payment Recovery Regulations.
- 23 Officers may also be entitled to release of their local government pension if they satisfy the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.
- 24 Employees who are Local Government Pension Scheme members aged 55 or over are entitled to request flexible retirement in accordance with the Council's Flexible Retirement policy. This allows an officer to access their local government pension and continue working in a role at either reduced hours or in a lower paid role to help their transition into retirement. Member approval is required where there is a cost associated with the release of the pension. There must be a benefit to the Council in agreeing to a flexible retirement request, the benefits may include: assisting with succession planning, delivering savings etc.
- 25 In exceptional circumstances we may find ourselves in the situation whereby an officer who has been previously employed by the Council (or another authority) and who, on ceasing to be employed, was in receipt of a redundancy payment and/or a local government pension is subsequently reemployed by the

Council. It is not the policy of Kent County Council (the pension scheme administrators) to abate pensions in payment in these circumstances.

- 26 In cases where the Council shares staff with other authorities/agencies this often results in different pay scales, terms and conditions between the two parties. The Council will ensure that for staff employed by Ashford Borough Council that there is internal comparability. This may result in discrepancies across teams with employees working for other employers.
- 27 The Council does not intervene in the pay policy of external contractors; remuneration packages are a matter for the external contractor to determine not the Council.
- 28 The Council is committed to tackling all forms of tax avoidance and therefore encourages the direct employment of staff and pays them via the payroll system. When a need arises for a temporary appointment, recruitment is normally secured by using the Council's employment agency contract arrangement. In a few circumstances where it is necessary to engage self employed people who can provide exceptional skills/experience, the Council will offer a contract for services. Such engagements would be in accordance with HMRC guidelines to ensure that the correct employment status has been applied for PAYE purposes.
- 29 This policy is required to be reviewed at least once a year proceeding the next financial year. Proposals to adjust the policy in a financial year must be approved by Members.

January 2023

Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Lead officer:	Michelle Pecci - Assistant Director
Decision maker:	Cabinet / Council
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	Approval of Annual Pay Policy
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	21 March 2024 / 16 May 2024
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	Cabinet/Council are asked to approve the updated Pay Policy Statement and approve the continuation of the Ashford Apprentice Wage Allowance at a rate of 20 pence per hour over the National Minimum Wage rate applicable to the age of the apprentice.
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	Compliance with Sections 38 to 43 of the Localism Act 2011
Consultation: <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	Consultation via JCC 15 February 2024

Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	none	Neutral
Middle age	none	Neutral
Young adult	Low	Positive Minor
Children	none	Neutral
<u>DISABILITY</u> Physical	none	Neutral
Mental	none	Neutral
Sensory	none	Neutral
<u>GENDER RE- ASSIGNMENT</u>	none	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	none	Neutral
<u>PREGNANCY/MATERNITY</u>	none	Neutral
<u>RACE</u>	none	Neutral
<u>RELIGION OR BELIEF</u>	none	Neutral
<u>SEX</u> Men	none	Neutral
Women	none	Neutral
<u>SEXUAL ORIENTATION</u>	none	Neutral

Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	Advice has been provided within report
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Is the decision relevant to the aims of the equality duty?

Guidance on the aims can be found in the EHRC's [Essential Guide](#), alongside fuller [PSED Technical Guidance](#).

Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	n/a
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	n/a
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	n/a

<p>Conclusion:</p> <ul style="list-style-type: none">• Consider how due regard has been had to the equality duty, from start to finish.• There should be no unlawful discrimination arising from the decision (see guidance above).• Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified.• How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported?	<p>Consultation has been followed and advice provided by qualified HR professionals</p> <p><i>The council's revised policy register will assist services to meet this</i></p>
EIA completion date:	12.03.24