

Policy and Sustainability Committee

10.00am, Tuesday, 24 October 2023

Edinburgh Leisure – Real Living Wage

Executive/routine
Wards

Routine
All

1. Recommendations

- 1.1 To request that the Executive Director of Place reviews the funding agreement in discussion with the Chief Executive of Edinburgh Leisure to understand the financial and operational implications of paying the real living wage, with a report on the findings to Committee on 9 January 2024.

Paul Lawrence

Executive Director of Place

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Edinburgh Leisure – Real Living Wage

2. Executive Summary

- 2.1 Due to Edinburgh Leisure being a private company limited by guarantee, the Council is unable to instruct Edinburgh Leisure to implement the real living wage but, through its funding agreement with Edinburgh Leisure, the Council is able to outline its requirements and priorities. This report recommends that a review is undertaken to understand the financial and operational implications for Edinburgh Leisure of paying the real living wage.

3. Background

- 3.1 The Council on 31 August 2023, following a motion by Councillor Campbell, [agreed](#):
- 3.1.1 To note that Edinburgh was a Living Wage City.
 - 3.1.2 To further note with sadness, that Edinburgh Leisure, an arm's length external organisation (ALEO) of the Council, was no longer paying the real living wage to all staff.
 - 3.1.3 To agree that this was unacceptable and resolve to take action so that every member of staff working for an organisation owned by the Council was paid at least the real living wage as agreed by the Living Wage Foundation.
 - 3.1.4 To therefore ask the Chief Executive to bring forward a proposed route by which the Council could, as shareholder, instruct Edinburgh Leisure to pay the real living wage to all staff, backdated to the start of this financial year (2023/24) while ensuring that all venues remained open. This should be reported to the next Policy and Sustainability Committee for ratification.
 - 3.1.5 To further instruct the Chief Executive to bring a report in two cycles to the Policy and Sustainability Committee which sets out the levers available to the Council currently to ensure that all ALEOs pay the real living wage, and a plan for how this could be embedded in shareholder agreements as these were updated through the governance work being done on ALEO reform. Additionally, this report should set out the levers available to the council to ensure that ALEOs were in line with other key Council commitments

including those around equality and access, workers' rights, and the climate and nature emergencies.

3.1.6 To note that, since May 2022, the Real Living Wage Foundation had accredited four Edinburgh Council ALEOS as Real Living Wage employers, namely Edinburgh Trams Ltd, Capital Theatres, Transport for Edinburgh Ltd, and Edinburgh International Conference Centre Ltd.

3.1.7 To further note that as of August 2023, all but 2 of the Council's ALEOs were accredited, one of which, Lothian Buses Ltd, did pay the living wage to its own staff but was in discussion with the Living Wage Foundation on potential future full accreditation.

3.2 The National Living Wage is currently £10.42 per hour for people aged 23 and over, £10.18 for ages 21-22, £7.49 for 18-20 and £5.28 for under 18 and apprentices. The Real Living Wage is currently £10.90 and has no age categories. The Chancellor announced in October 2023 that the National living Wage was set to be raised to over £11 per hour from April 2024.

4. Main report

4.1 This report explores if and how the Council could require Edinburgh Leisure to pay the Real Living Wage to all staff. As of July 2023, 305 employees of Edinburgh Leisure were paid over the National Living Wage but below the Real Living Wage. Edinburgh Leisure operates within its own salary structure, with associated terms and conditions, which have been negotiated and evolved over the years to better suit their organisation.

4.2 Edinburgh Leisure is a private company limited by guarantee. This means there are no shares and thus no shareholder. This is a common arrangement for charities (Edinburgh Leisure is also a charity) and public sector organisations setting up a company to manage a service.

4.3 Instead of shareholders, Edinburgh Leisure has members. They have a maximum of 15 members, of which seven are nominated members (five from the Council, one trade union and one from the Edinburgh Sports Forum or successor body), one ordinary member and seven special co-opted members. The members also serve as directors of the company.

4.4 As highlighted above, there are no shareholders of Edinburgh Leisure and as a result the Council holds no shareholder power to instruct or require Edinburgh Leisure to pay the Real Living Wage. Edinburgh Leisure is an Arm's Length External Organisation of the Council, but it is not owned by the Council. The Council has five members (who are also directors on the Board) who are able to take decisions on such matters, but they form only one-third of the Board and have a fiduciary duty to act in the best interests of the company. As a result, the Council is not able to instruct those members to vote in a specific manner or require them to raise an issue.

4.5 The Council has a funding agreement with Edinburgh Leisure which sets out expectations on the Council and Edinburgh Leisure. Contained in the agreement is the following:

4.6 The Recipient shall, to the extent reasonably possible, comply with the Funder's policy on:-

4.6.1 the living wage,

4.6.2 the Edinburgh guarantee scheme,

4.6.3 modern apprenticeships.

4.7 The Recipient shall provide the Funder with a report regarding the steps required to achieve compliance with the policies referred to in clause 4.6 (including indicative costing and timescales in respect of same) as soon as reasonably practicable following the execution of this Agreement, and in any event within 1 month of a request by the Funder for same.

4.8 The Funder may require the Recipient to take particular steps to implement compliance with the policies referred to at clause 4.6, provided that the Funder shall act reasonably in this regard. The Recipient will cooperate fully with the Funder with the objective of complying fully with the policies referred to at clause 4.6 by 31 March 2024.

4.6 As can be seen, there is already a requirement for Edinburgh Leisure as part of the funding agreement to pay the living wage, to the extent reasonably possible. This followed a letter from the Council to its ALEOs in 2019 asking them to pay the living wage. Unfortunately, it is not defined in the agreement whether that is the national living wage or the real living wage. In addition, the requirement in the agreement is for the living wage to be paid by 31 March 2024 but only if it is reasonably possible.

4.7 In conclusion, the Council cannot instruct Edinburgh Leisure to pay the real living wage immediately: the governance structure of Edinburgh Leisure means there is no avenue for the Council to do so. It is recommended that the funding agreement is the optimal approach for the Council to ensure its policies are implemented by Edinburgh Leisure. This also encourages a partnership working approach, helping ensure that the Edinburgh public receive the best possible service while maintaining value for money. However, the current funding agreement no longer reflects Council policy which is clear on the expectation that the Council's ALEOs should pay the real living wage.

4.8 It is recommended that the Executive Director of Place reviews the funding agreement in discussion with the Chief Executive of Edinburgh Leisure to understand the financial and operational implications of implementing the real living wage. Once completed, a report will be prepared for Committee on 9 January 2024 on the findings and proposed next steps. The review will also consider the implications if payment of the real living wage was backdated to 1 April 2023. This will allow any financial implications to be considered as part of the Council's budget setting process if necessary.

5. Next Steps

- 5.1 A further report will follow to the Policy and Sustainability Committee which sets out the levers available to the Council currently to ensure that all ALEOs pay the real living wage, and a plan for how this could be embedded in shareholder agreements. This report will also cover how other key Council commitments including those around equality and access, workers' rights, and the climate and nature emergencies can be embedded into agreements.
- 5.2 Following the review of the funding agreement, a report will be brought back to Committee informing members of the current situation.

6. Financial impact

- 6.1 There would be a financial impact on Edinburgh Leisure if the real living wage was implemented. Any impact on the Council would be dealt with as part of the budget process.

7. Equality and Poverty Impact

- 7.1 The Council's commitment to the real living wage is a key component of ending poverty in the city. Implementing the real living wage in Edinburgh was an action of the Edinburgh Poverty Commission's report in 2020.

8. Climate and Nature Emergency Implications

- 8.1 Not applicable

9. Risk, policy, compliance, governance and community impact

- 9.1 The Council is undertaking a review of its ALEOs and the governance documentation supporting them.

10. Background reading/external references

- 10.1 [Edinburgh Leisure Memorandum and Articles of Association](#)
- 10.2 [Companies Act 2006](#)
- 10.3 [Act of Council no 18 of 31 August 2023](#)

11. Appendices

- 11.1 None.