

Report of Chief Officer HR

Report to General Purposes Committee

Date: 29th July 2014

Subject: HR Challenges 2014 – Proposed Changes to Terms and Conditions

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: 10.4 (4) and (5) Appendix number: 3	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Summary of main issues

1. The Council is facing a significant financial challenge over the next 18 months, which will undoubtedly impact on the delivery of Council services resulting in significant job losses unless the Council can do things differently. Part of the measures being put forward to reduce the impact on the workforce is a number of proposed changes to employment terms and conditions.
2. Consultation with the Trade Unions (TUs) about how we can work together to reduce staffing costs has been ongoing for a number of months resulting in a number of proposals to changes terms and conditions, as outlined in Appendix 1.
3. In the absence of a collective agreement being reached with the TUs the Council needs to decide if and how these proposed changes should be put into effect.

Recommendations

4. General Purposes Committee is recommended to:
 - Note the contents of this report and consider the detailed legal advice in exempt Appendix 3.
 - Note the continued consultation with the TUs with a view to trying to reach a collective agreement.

- Resolve to agree the changes to terms and conditions outlined in paragraph 3.3.3 of the main report and detailed in appendix 1 to the report.
- Agree that the new proposals will be put into effect for new starters to the Council as soon as practicable after the 1st August 2014. For current staff offered new contracts following internal changes, the new terms would apply from 1st September 2014.
- Note, in the absence of a collective agreement, for current staff the options available to implement these proposals are: to seek individual consent; to give notice of the changes; or to dismiss and immediately re-engage staff on new terms and conditions of employment. Different options may apply to each proposal and to all or groups of affected staff in scope.
- To note, subject to decisions reached by the committee, that authority to implement these changes rests with the Deputy Chief Executive in accordance with the approved delegation scheme

1 Purpose of this report

- 1.1. To seek approval from General Purposes Committee to changes to employment terms and conditions as outlined in Appendix 1.

2 Background information

- 2.1 The Council is facing an unprecedented financial challenge over the coming years. By 2016 / 17 the funding will have reduced by £170m, which equates to a 43% reduction in real terms. The Council's budget for 2014/15 indicates that employment costs need to reduce by the equivalent of approximately 200 full time equivalents (FTEs). However, the funding gap for 2015/16 and 2016/17 means the total reduction in the workforce will be even greater.
- 2.2 It is anticipated that some of the required employment cost savings may be achieved through the Early Leaver Initiative (ELI) scheme and normal staff attrition but these will be insufficient to bridge the funding gap the Council is facing.
- 2.3 A series of meetings have been held since July 2013 with the TUs, leading to a more intensive consultation period since mid-February 2014 with the Council's lead convenors and regional organisers to consult in detail about ways in which changes to terms and conditions could reduce employment costs, to reduce the possibility of compulsory redundancies.

3 Main issues

- 3.1 It is the TUs collective view that savings can be achieved through a ban on non-essential agency staff and further spend on consultants, an external freeze on recruitment, a reduction in overtime worked, freeze on the creation of senior management posts, reducing overtime, continuing to release staff voluntarily under the Early Leaver Initiative (ELI), greater emphasis on retraining to fill essential vacancies, redesigning services, longer term staff resourcing planning and deleting funded vacant posts from structure. Whilst significant progress has been made in reducing employment costs in these ways, focussing on these alone is neither sustainable nor practical and it is not believed that they will deliver the required employment costs reduction by 2016/17.
- 3.2 The TUs' position gives an indication that a collective agreement on the proposals may not be reached, which is reinforced by the fact that they are not currently willing to enter into negotiations regarding changes to terms and conditions as an alternative to compulsory redundancies. Whilst consultation with the TUs continues, if an agreement is not reached the Council needs to consider how these proposals are taken forward.
- 3.3 Proposal
 - 3.3.1 In January 2014 Members and senior officers met with the TUs to put forward a number of proposed changes to terms and conditions. In addition to the proposals outlined in Appendix 1 the original proposal also included:

- Considering changes to premium rates of pay (overtime rates weekend enhancements, shift allowances etc.)
- Freezing salaries at current levels and not applying future incremental progression
- Introducing spot salaries for new starters
- Removing the Excess Travel policies
- Changing subsistence rates

3.3.2 HR has worked closely with key stakeholders to undertake an impact analysis of implementing the original proposed changes to terms and conditions on key occupational groups and taken on board their feedback. Given the impact these wider proposals would have on lower graded roles, which would have been counterproductive to the Council's commitment to addressing low pay and involvement in the ongoing regional work to try and implement the Living Wage, the Council is only proceeding with the **proposals** outlined in **Appendix 1**, which was presented to the trade unions on 19th June 2014.

3.3.3 To summarise, the revised proposals therefore includes the following:

1. Removal of existing pay protection arrangements with no new pay protection policy going forward.
2. Replacing Managing Workforce Change with a Managing Staff Reductions (Redundancy) Policy. This includes removal of the current 4 month supernumerary period so that anyone entering the process will receive a 3 months' notice period only.
3. Changes to Transport allowances including;
 - i. Introducing Her Majesty's Revenue and Customs (HMRC) mileage rates for all casual users, and also for essential users where the current rate is higher than the HMRC rate. The current HMRC rates are 45p per mile for the first 10,000 miles and 25p per mile thereafter, compared to the highest current LCC mileage rate of 65p per mile (i.e. our current rate is 20p per mile above the government's national figure for tax purposes)
 - ii. Changing the eligibility criteria for the essential car user allowance. There are currently approximately 1500 staff who receive the essential car user payment, and under the proposal, only specified roles (and within that, those which meet a minimum mileage threshold) will continue to receive the payment
 - iii. Removing free / subsidised city centre parking permits by increasing the cost of a permit to the market rate. The market rate will be comparable to Woodhouse Lane car park, which is currently £300 per quarter.

The revised proposals will be underpinned by the implementation of a flexibility protocol to facilitate a more flexible and agile deployment of resources to meet the Best Council priorities.

Incremental progression will also be withheld where there is an adverse report on an employee.

- 3.3.4 These proposals affect all staff in scope as detailed in section 3.4.5 below. However, there will be a more immediate financial impact on a smaller proportion of the workforce resulting from one or more of the following proposed changes; Loss of pay protection (approximately, 350 employees are currently receiving various amounts of pay protection arising from current and historic pay arrangements). Loss of essential car user allowance (approximately 400 staff currently benefit from essential car user allowance but will not meet the revised eligibility criteria). Changes to mileage rates (approximately 2500 casual car users claim each month although not all of these will be regular claimants). Increase in the cost of car parking permits will affect approximately 180 staff.
- 3.3.5 The revised proposals would appear to have a minimal impact on non-teaching schools based staff. It is therefore proposed that existing pay protection arrangements for non-teaching schools based staff will be discussed locally.
- 3.3.6 Although provisions such as pay protection, Managing Workforce Change and enhanced transport rates are perhaps rare in the private sector, they have been applied historically in local government. These proposals are likely to be strongly resisted as the Trade Unions have fought at both national and local level to protect terms and conditions. However, the benefits of the proposed changes will result in efficiencies in how the Council deploys staff, works more flexibly to meet changing demands and manages its' workforce reductions more effectively.

3.4 Implementation

- 3.4.1 The TUs were asked to confirm their formal position to the Council by 4th July 2014 and a further meeting with Members and senior officers took place with the Trade Unions on 11th July to discuss this.
- 3.4.2 The TUs joint position is that they do not have a mandate from their members to enter into any negotiation about any detrimental changes to terms and conditions of employment. A further consultation meeting took place with the TU's on 17th July 2014 and the next one is planned for the 24th July 2014.
- 3.4.3 Given the TUs position in relation to engaging in consultation and negotiation on the proposals it may be that a collective agreement will not be reached. There are therefore a number of implementation options that can be considered in the event entering into a collective agreement is not possible. Individual consent could be sought in relation to all staff or some groups of affected staff. Notice of the changes could be given to staff. Alternatively all staff, or immediately affected groups of staff, could be dismissed and immediately reengaged on the new terms and conditions. Whilst a dismissal would be followed by immediate re-engagement on new terms taking such a step would need to be balanced against the impact this may have on engagement levels across the workforce.
- 3.4.4 The intention is to put these changes into effect these for staff in scope as soon as possible to realise the required financial savings. Dependent upon the implementation method the earliest these proposals can be implemented for

current staff is likely to be November 2014. It is recommended that the changes are implemented sooner for new starters; from 1st August 2014 for new starters to the Council and 1st September 2014 for current staff offered new contracts following internal changes (for example, job changes, acting up arrangements, temporary roles, and appointments following restructures).

- 3.4.5 Staff in scope are all LCC employees on permanent, temporary or fixed term contracts (including all staff who TUPE transferred into the Council) but excluding those employed directly by a school, and Public Health staff who are on 'Agenda for Change' terms and conditions. The proposals will also apply to centrally employed Teachers with the exception of the proposal in relation to pay protection arrangements. Their current national pay protection arrangements will still apply.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 As referred to above there has been ongoing consultation with the TUs over many months, including regular meetings with Members and senior officers, about the need to reduce employment costs and how we can work together to achieve the required savings.
- 4.1.2 The Council operates an arrangement called collective bargaining with recognised TUs in order to negotiate terms and conditions of employment for all Council employees whether they are a TU member or not. The Trade Unions have held mass meetings with their members and their views have been fed back into the Members Steering Group meetings.
- 4.1.3 In addition to the above there have been regular updates from the Chief Executive including blogs and all staff emails. All staff have been offered the opportunity to feedback and ask any questions in response to these communications

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Due regard has been given to equality and a copy of the full **equality impact assessment** can be found at **Appendix 2** to this report.
- 4.2.2 Overall, the proposals will reinforce a sense of fairness and equality across the workforce

4.3 Council policies and City Priorities

- 4.3.1 The proposed changes to terms and conditions have been developed to reduce employment costs, protect public services and wherever possible minimise the need to make compulsory redundancies.

4.4 Resources and value for money

- 4.4.1 The proposals save approximately £9m per annum. It is anticipated that these savings will enable the Council to, as far as possible, deliver the required workforce reductions in a more managed way on a voluntary basis.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 **Exempt appendix 3** is a copy of **the legal advice** on the options available to put these changes into effect in the absence of reaching a collective agreement.
- 4.5.2 Appendix 3 to this report is considered confidential under Access to Information Procedure Rule 10.4 (4) and (5) because it contains information in respect of consultation in connection with labour relations matters and which a claim to legal professional privilege could be maintained in legal proceedings. It is considered in these circumstances that the public interest in maintaining the exemption from publication outweighs the public interest in disclosing the information.

5. Risk Management

- 5.1 Please see exempt Appendix 3.
- 5.2 In the context of the mandate the TUs already have from their members to fight any detrimental changes to terms and conditions the TUs may ballot for some form of industrial action and contingency plans need to be considered to ensure service continuity.
- 5.3 Chief Officers have been consulted on these proposals and views have been sought on the potential service delivery impact of implementing these proposals.

6 Recommendations

General Purposes Committee is recommended to:

- Note the contents of this report and consider the detailed legal advice in exempt Appendix 3.
- Note the continued consultation with the TUs with a view to trying to reach a collective agreement.
- Resolve to agree the changes to terms and conditions outlined in paragraph 3.3.3 of the main report and detailed in Appendix 1 to the report.
- Agree that the new proposals will be put into effect for new starters to the Council as soon as practicable after the 1st August 2014 by contracting new starters on revised terms and conditions. For current staff offered new contracts following internal changes, the new terms would apply from 1st September 2014.
- Note, in the absence of a collective agreement, for current staff the options available to implement these proposals are: to seek individual consent; to give notice of the changes; or to dismiss and immediately re-engage staff on new terms and conditions of employment. Different options may apply to each proposal and to all or groups of affected staff in scope.
- To note, subject to decisions reached by the committee, that authority to implement these changes rests with the Deputy Chief Executive in accordance with the approved delegation scheme.

7. Background documents¹

7.1 Not applicable

8 Appendices

Appendix 1	Changes to Terms and Conditions - Formal Proposal
Appendix 2	Equality Impact Assessment
Appendix 3	Exempt - Implementation Options and Legal Advice Paper (not for publication)

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.