



Report of the Director of Resources

Executive Board

Date: 8th October 2008

Subject: Pay and Grading Review

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

EXECUTIVE SUMMARY

In February 2008, the Executive Board agreed an amended pay structure and pay protection arrangements for Leeds City Council employees covered by the National Joint Conditions (NJC) for Local Government Services (Green Book). It also agreed arrangements for implementation of the new pay structure in order to meet the requirements of the 1997 Single Status Agreement. Following this decision, GMB membership in Environmental Services implemented a campaign of industrial action which commenced on 23 April 2008. GMB subsequently presented a deputation to Full Council on 2 July 2008 regarding these matters.

1.0 PURPOSE OF THIS REPORT

- 1.1 To update members on the progress of the Pay and Grading Review and in particular the implementation process.
- 1.2 To respond to the deputation made by GMB.

2.0 BACKGROUND INFORMATION

- 2.1 In **December 2007**, Unison, GMB and Unite (T&G) balloted their members regarding the proposed pay structure and pay protection terms. The ballots returned by Unison and Unite (T&G) were positive however the ballot returned by GMB was negative therefore a collective agreement was not possible.
- 2.2 On **8 February 2008**, the Director of Resources submitted a report to Executive Board which sought approval for:
 - 2.2.1 The new arrangements for Phase 1 of the Pay and Grading Review
 - 2.2.2 Confirmation of the position on pay protection for Phase 1 and Phase 2 employees under the Review. This had been previously agreed in March 2007 by Executive Board.
- 2.3 The outcome of Executive Board was as follows:
 - 2.3.1 That the amended pay structure be approved.
 - 2.3.2 That the pay protection arrangements for Phase 1 and Phase 2 employees are confirmed.
 - 2.3.3 The Director of Resources to continue negotiations with the Trade Unions, in particular, to work collaboratively with the Trade Unions to identify means of avoiding individual pay loss wherever possible and appropriate.
 - 2.3.4 The Director of Resources was mandated to take steps to implement the new pay structure, by agreement or otherwise, in the light of the outcome of negotiations with the Trade Unions.
- 2.4 In **April 2008**, GMB members in Environmental Services commenced industrial action. This took the form of 3 full days of strike action on 23 April, 1 May and 8 May, together with a 'work to rule' from 24 April. This action ceased in July 2008.
- 2.5 On **2 July 2008**, GMB made a deputation to full Council.
- 2.6 Following the decisions at Executive Board in February, Unison and Unite (T&G) continued to work very positively with the Council to implement the Single Status Agreement. Having failed to gain the formal collective agreement, they agreed to sign instead an 'Accord' document which sets out agreement in principle to abide by the terms of the original agreement.

3.0 MAIN ISSUES

3.1 Implementation Process

- 3.1.1 The implementation process has commenced with approximately 23,000 individual offers made to employees since April 2008. A total of 14,813 people received their July salary in accordance with the new pay structure. 8,389 staff received backdated pay from April 2007.
- 3.1.2 For those employees who have not accepted their offer to date, repeated offers are being made.
- 3.1.3 Employees whose salary increases or stays the same; have received a letter notifying them of a variation to their employment contract with three months notice to take effect 1 November 2008.
- 3.1.4 Employees whose job evaluation outcomes have resulted in a lower grade have received a letter terminating their current employment contract with an offer of immediate re-engagement. The notice is for three months to take effect on 31 October 2008 with re-engagement commencing on 1 November 2008.

3.2 Pay Protection

- 3.2.1 The pay protection arrangements agreed by Executive Board on 8 February 2008 were as follows:

Pay protection for a period of no longer than 3 years protection for those staff whose grade changes adversely as a result of the job evaluation exercise. This protection would continue to attract annual pay awards and increments in line with the NJC for Local Government service pay agreement effective from 1 February 2008. In the 4th year, staff would move directly to the maximum point of the new substantive grade/pay range.

These Pay protection arrangements reflect similar arrangements made by a number of local authorities.

- 3.2.2 In July 2008 a significant Court of Appeal decision on pay protection was given in the case of *Redcar & Cleveland Borough Council v Bainbridge* and *Surtees v Middlesbrough Borough Council*. The Court of Appeal decided in those cases that the pay protection arrangements of the respective councils could not be justified. This does not mean that pay protection in itself is unlawful but does mean that pay protection arrangements must be non discriminatory in origin and must be justified. The parties in both the Bainbridge and Surtees cases are seeking leave to appeal the decisions to the House of Lords. The Director of Resources is in the process of taking legal advice on the implications of the decision for Leeds City Council.

3.3 Response to GMB Deputation to Full Council.

- 3.3.1 The key themes addressed in the GMB speech included:
- low paid women
 - levelling up pay
 - equal pay challenge and settlements

- issues of pay loss; with particular reference to Environmental Services, Mid-day Supervisors and non-teaching school staff in receipt of a special needs allowance
- success on the movement of job evaluation outcomes as a result of GMB 'pressure' through industrial action
- guarantee of no pay loss

3.2 The new pay structure has improved the overall starting salary for all new Council employees via the deletion of spine points 4 and 5 from the pay structure. The implementation has also improved the salary of 6,799 women in the Council by an average of £516 per annum.

3.3 GMB has consistently indicated that they would require 'levelling up' of employees to ensure no employees required pay protection. This would cost the Council approximately £45 million in the first year alone. Incremental progression and cost of living pay awards would see this increase in future years. The cost of this would be unaffordable to the Council as it would have a significant impact on the services provided by the Council and would lead to a significant reduction or deletion of necessary services and a consequent deletion of posts. GMB have been made aware of this in the negotiations that have taken place throughout the Pay and Grading Review.

3.4 GMB has also made further requests;

3.4.1 To improve the assimilation point for staff within their pay range to reflect previous service. The cost of the improved assimilation for employees with more than 1 years service would be approximately £2.2 million.

3.4.2 To guarantee that no employee would lose pay. This guarantee however, would present the Council with significant risk of equal pay claims.

3.4.3 Neither of these is considered as viable options for the Council.

4.0 Implications for Council Policy and Governance

4.1 The Council needs to implement the Single Status Agreement to avoid inequality in pay.

5.0 Legal and Resource Implications

5.1 Legal advice regarding pay protection is set out in the attached confidential report at Appendix A.

6.0 Conclusions

6.1 The Council now needs to review the implication of the recent Court of Appeal decision regarding pay protection.

7.0 Recommendations

7.1 That Executive Board:

7.1.1 Notes the response to the GMB Deputation to Full Council on 2 July 2008.

7.1.2 Notes the progress regarding implementation of the new Pay & Grading arrangements.

8.0 Background Papers

8.1 Executive Board Report of 8 February 2008 titled.

8.2 Minutes of the Executive Board of 8 February regarding the report above.

8.3 Record of the Deputation of GMB at Full Council on 2 July 2008.