

TITLE OF REPORT: **Review of Terms and Conditions**

REPORT OF: **Mike Barker, Acting Chief Executive and Strategic Director,
Corporate Services and Governance**

Purpose of the Report

1. The purpose of this report is to provide feedback to Cabinet on progress made to date in the current review of terms and conditions and to seek Cabinet and Council approval to implement proposals relating to car allowances and the normal working week.

Background

2. The Council's Workforce Strategy and Plan recognise the need to ensure our approach to pay and reward fits the organisation's values whilst being competitive and sustainable.
3. Previous reviews of employment costs have been undertaken in the last few years as part of the continuing review of terms and conditions of employment. This has included: services undertaking operational reviews to remove or reduce the reliance on premium rates of pay; a reduction in the number of essential car users by more than 50%; a reduction in car mileage rates and essential car user lump sums; the removal of some personal allowances; reducing the payment of the excess travel allowance; and a reduction in overtime budgets based on the new protocol designed to ensure premium rate overtime is only applied in accordance with the JE agreement: i.e. for 'emergency' overtime.
4. A further review of terms and conditions is being undertaken to reduce the costs of employment; to ensure services are delivered in the most efficient and effective way possible and are sustainable; to reduce the need for further redundancies because of competitiveness/lack of competitiveness or inability to be more flexible; and to make services more cost effective and thereby increase success in traded services.
5. The current review of terms and conditions is looking at all employment costs including premium payments, personal allowances, essential car user allowance, the working week and pay protection. It will identify which jobs will be affected and by how much, the impact on services and any options for compensation.

Progress to date

7. Workshops were held with service directors and service managers to discuss the scope of the review and better understand the impact of the proposals on individual services.
8. Regular meetings have been held with the trade unions and their representations have been fully considered. In summary, they support a review of operational practices

which identifies how a service can be run more efficiently. They also support the withdrawal of allowances where the work is no longer being carried out for which the allowance is paid. However, they do not support any proposals which will see employees' take home pay reduce when they are continuing to carry out their duties in exactly the same way. They are also concerned about the impact of any changes to the current pay protection arrangements. The trade unions believe that the current protection arrangement has been crucial in achieving the outcomes the Council and trade unions have wanted for employees over the previous 5 years. Further negotiation is ongoing with the trade unions regarding proposals to reduce the pay protection period and a further report will be brought in the near future in relation to this.

9. The Council's proposals in this report relate to:
- Essential car user allowance
 - Changes to the normal working week

Details of the proposals and consultation outcomes are included in Appendix 1.

10. The proposals outlined in this report will contribute £113k to 2018/19 budget savings. In addition to this, the changes in the working week would increase productivity by 275 hours per week and should reduce the need for overtime in some areas.

Proposal

11. It is proposed that:
- The essential car user allowance is withdrawn and all employees redesignated as casual car users
 - All employees protected on 35 hours 50 minutes working week are moved onto 37 hours (or pro rata) from 1 April 2017
12. The intention is to implement the proposals relating to the removal of essential car users from all posts except those in the evening Domiciliary Care service with effect from 1 April 2017 and then remove essential car user status from all posts in the evening Domiciliary Care service at a later date once it has been identified how the allowance can be removed without impacting on service delivery.
13. Employees at all levels of the organisation will be impacted by these proposals. There will be no significant impact on any one group or grade of employees.

Recommendations

14. Cabinet is asked to recommend the Council to approve the implementation of the proposals outlined in this report.

For the following reasons:

- (i) To achieve savings in employment costs
- (ii) To modernise and harmonise terms and conditions of employment
- (iii) To minimise redundancies

Policy Context

1. The proposals within this report are part of the Ways of Working workstream and support the priorities in the Council Plan and Vision 2030.
2. Developing effective operational practices and relevant terms and conditions of employment are an important part of the Workforce Plan and will contribute to the avoidance of redundancy whilst recognising that our approach to terms and conditions needs to be competitive and sustainable.

Background

3. Given the continuing need to identify savings to bridge the funding gap identified in the Medium Term Financial Strategy, along with the increasing pressure to ensure our terms and conditions reflect the current climate and the likelihood that this pressure will continue for the foreseeable future we need to ensure our approach to pay and reward fits the organisation's values and commitment to look after the workforce whilst recognising the need to be competitive and sustainable.
4. The Council's Workforce Strategy and Plan confirm this need to have a Pay and Reward Strategy which is fit for purpose, including the continued review of terms and conditions of employment to ensure they are consistent with the Council's aspirations set out in the Council Plan, with particular emphasis on premium payments.
5. The Council is, therefore, proposing a number of amendments to certain terms and conditions of employment that will contribute to the savings targets and improve efficiency, remove anomalies and allow the Council to operate as a modern organisation with fair and appropriate terms & conditions of employment. Whilst the proposals are made reluctantly and the changes may prove unpopular, the alternative of further job loss is far more unpalatable.
6. The review of terms and conditions will continue in order to ensure services are delivered in the most efficient and effective way possible and are sustainable; reduce the need for further redundancies because of competitiveness/lack of competitiveness or inability to be more flexible and make services more cost effective to increase success in traded services.
7. The Trade Unions representations have been fully considered in frequent and regular meetings. Their starting position is as follows:
 - They will support operational reviews on withdrawal of allowances where the work is no longer needed or where the employee has a choice about undertaking the work. They will not, however, support changes in terms and conditions that mean their members will be paid less for doing the same work, in the same circumstances.
 - They do not support a blanket approach to changing terms and conditions believing this will inevitably impact on the poorest paid. They continue to believe that some premium payments could be managed out by managers. Although some services have undertaken operational reviews to reduce or remove the reliance on premium rates, they believe there is further analysis that could be done to identify whether there is scope to remove the need to work in a particular way or to identify those areas where there may be excessive numbers of employees and managers working and attracting premium rates of pay.

- They will agree to review terms and conditions in consultation with their members, where this would secure or retain business or would make the service more competitive or cost effective after all other costs have been looked at and reviewed. They have stated that this should include all on costs not associated with terms and conditions which they feel have never been properly looked at. They believe this is where much larger savings could be made to make services more competitive and may result in increased success in traded services.
 - Terms and conditions spend is less than 2% of the total payroll bill.
 - The trade unions are also concerned about the impact of any changes to the current pay protection arrangements. The trade unions believe that the current protection arrangement has been crucial in achieving the outcomes the Council and trade unions have wanted for employees over the previous 5 years. Further negotiation is ongoing with the trade unions regarding proposals to reduce the pay protection period and a further report will be brought in the near future in relation to this.
8. The Council's proposals for change relate to:
- Essential car user allowances,
 - The normal working week
9. A summary of the proposals are shown below, along with the Trade Unions' response to each proposal.

Proposal relating to withdrawal of Essential Car User status

10. Prior to the first review of essential car users in 2012, there were approximately 599 essential car users. Following a series of reviews since 2012, there are currently 234 employees who retain the essential car user allowance. The intention is to write to all essential car users as soon as possible confirming that they are to be given 12 weeks' notice to have their essential car user status withdrawn and that they will no longer receive the essential user lump sum payment. These employees will be redesignated as casual car users. While casual car users do not receive a lump sum payment, they do receive a higher mileage rate: 46.9p per mile (as opposed to 36.9p per mile as an essential car user).
11. There may be some employees who refuse to use their personal vehicles for work and this could impact on service delivery. We will need to ensure viable alternatives are in place for those employees, therefore it is planned to add a further two to three additional pool cars increasing the number to 21. This increase will be reviewed on a regular basis to ensure it is appropriate.
12. Employees who lose their essential car user status and subsequently refuse to use their personal vehicles for work will be required to sign up to use pool cars and use pool cars when one is available. Employees will be informed that they cannot refuse to use both their own cars and pool cars. If no pool cars are available then employees should consider using public transport if appropriate for the journey, accessing the corporate metro and bus passes that are available.
13. Managers will be expected to work with their employees to support them to plan their work more efficiently and thereby ensure there is no detrimental impact on service delivery.

14. Senior managers in Children and Families social work teams are largely supportive of the removal of the allowance as there is currently a situation within the group where some social workers have the allowance and others don't and this is seen as unfair. They do, however, agree that there are currently retention issues and that the timing for the removal of the allowance should be considered as part of the ongoing remodelling of the Children & Families social work teams.

Trade Union response

15. The trade unions are concerned that the existing retention issues in Children and Families Social Work teams may be exacerbated by the removal of the allowance (the vast majority of essential car user allowances are paid to children's social workers). They are also concerned about the impact of the removal on the evening Domiciliary Care Workers as they will have limited access to alternative transport methods.
16. Before any further removal of any essential car user allowances the trade unions insist that individual service plans are produced by service directors to demonstrate how they intend to manage this situation for all staff. They believe particular attention should be paid to out-based staff who may have no access to alternative transport methods and those who currently use their own vehicles to transport service users. The trade unions still strongly believe that some employees are essential car users and should continue to receive this allowance.

Management response

17. In light of the issues highlighted it is recommended that essential car user allowance is removed from all posts except those in the evening Domiciliary Care service. The ongoing review of the pay and grading structure and retention issues in the Children and Families Social Work teams should alleviate the concerns regarding retention issues and facilitate the removal of this allowance. There will be a further review of the alternative transport options available to the evening Domiciliary Care workers with a view to identifying how the allowance can be removed without impacting on service delivery.
18. The employee impact information relating to this proposal is detailed in Appendix 2.

The annual savings that will be delivered from this proposal will be £113,000.

Proposal relating to Normal Working Week: Move all employees on 35 hour 50 minutes protected hours onto 37 hours

19. The Council wishes to deal with the inequity of employees who still enjoy the protection of working a shorter working week (35h 50m) than their colleagues for the same pay, as it seems particularly inequitable and divisive to have some employees contracted to working fewer hours for the same pay as their colleagues. This protection has been in place since 1998.
20. There are currently approximately 252 employees who are still protected on a 35h 50m or pro rata working week. The proposal is to move all employees protected on 35h 50m onto standard 37 hour working week with no increase in pay.

21. Part time employees working pro rata 35h 50m hours should be given the option to increase hours to appropriate pro rata of 37 hours in order to maintain their earnings (maintaining current hours would result in a pay decrease).

Trade Union Response

22. The Trade Unions believe that this is an unnecessary proposal and does not result in a saving. They believe that this should be phased out as and when people leave the Council or move on to different positions. They have requested an analysis be undertaken to identify if employees who have already had a promotion or moved into a new job have actually moved on to a 37 hour contract, as was previously agreed, as they believe this has not routinely happened.

Management Recommendation

23. The trade unions have previously acknowledged (Cabinet report dated 24 October 2012) that there were provisions in the original single status agreement to review the working week protection arrangements after a period of time, therefore it is recommended that the proposal to move all employees protected on 35h 50m onto a standard 37 hour working week (or pro rata) with no increase in pay is implemented in order to remove the inequality in working arrangements and increase productivity.
24. Moving all protected employees onto a 37h working week (or pro rata) would not deliver any direct savings but would increase productivity by 275 hours per week and should reduce the need for overtime in some areas.
25. The employee impact information relating to this proposal is detailed in Appendix 3.

Premium rates of pay

26. Over £4m is spent per year on premium rates of pay.
27. The Trade Unions were provided with detailed financial information regarding the spend on premium rates of pay per service and per employee for 2015-16 and provided feedback on those areas where they believed there was capacity to reduce or remove the use of premium payments.
28. Meetings were held with service directors to discuss the 2015-16 spend to identify the key issues that would arise from any changes, as well as which changes to premium rates would support them in becoming more sustainable and competitive and to give them an opportunity to comment and consider the information received from the trade unions.
29. A number of service directors are looking at alternative delivery models which might include different terms and conditions. It is accepted that local terms and conditions can be applied to certain groups of employees but only where there is a justifiable difference which could be defended in any equal pay challenge. Service directors are currently putting together business cases about potential delivery models and will work with colleagues in Legal and HR to determine whether local terms and conditions could be justified.
30. Work in relation to premium rates of pay is ongoing and a further report will be brought in the near future on this.

Trade Union Response

31. The trade unions have stated that Local Government Pay has fallen in real terms by nearly 20% since 2009. They believe that those at the bottom of the pay structure including cleaners, catering assistants, school crossing patrol staff etc. salaries would be worth £1,409 more in real terms if it had risen in line with inflation since 2010. A recent report commissioned by the Joseph Rowntree Foundation also found 55% of those in poverty - are now in working households.
32. Locally, premium rates can be worth as much as 25% of take home pay, any reductions in premium rates will have a substantial impact on hundreds of workers – especially low paid women.
33. The trade unions have stated that significant savings have been achieved by developing more efficient, effective and sustainable ways of working and they are committed to continuing with this approach.

Consultation

34. The views of the Leader and Deputy Leader of the Council have been sought in drafting this report. The Council's recognised non-teaching Trade Unions have also been consulted and their views taken into account in the drafting of the proposals.

Alternative Options

35. The Council could decide to make no change to the terms and conditions in the identified areas; however, this alternative will not deliver savings or increase productivity. Savings not achieved would need to be found elsewhere in the budget and would increase the risk of redundancies; it will not address some anomalies within the current payment of the employment costs and it will not help the Council to operate as a modern organisation with fair and appropriate terms and conditions of employment.

Implications of Recommended Option

36. **Resources:**
 - a) **Financial Implications** – The Strategic Director, Corporate Resources, confirms that the recommendations included in this report will deliver full year budget savings of £113,000.
 - b) **Human Resources Implications** – the human resources implications are considered throughout this report.
 - c) **Property Implications** – there are no property implications arising from the recommendations within this report.
37. **Risk Management Implication** - Failure to implement the recommended option would result in the identified savings not being achieved. The risks that have been identified around the implementation of the specific proposals will be managed through Risk Logs that are maintained within Group Management Teams.

38. **Equality and Diversity Implications** –Equality Impact Assessments have been undertaken to analyse the impact of each of the proposals against 6 of the 9 protected characteristics. There will be no significant impact on any one group of employees however, some of the proposals and their impact will need to be monitored and reviewed and this will be carried out on a regular basis. The full Equality Impact Assessments can be found in the Council’s on line papers.
39. **Crime and Disorder Implications** – There are no crime and disorder implications.
40. **Health Implications** - There are no health implications.
41. **Sustainability Implications** - There are no sustainability implications.
42. **Human Rights Implications** - There are no human rights implications.
43. **Area and Ward Implications** - There are no area and ward implications.
44. **Background Information**

Employee Impact from the removal of essential car user allowance

234 employees would be affected (5.2% of the workforce)

- 191 employees in Care Wellbeing & Learning
 - 87 in Adult Social Care & Independent Living
 - 98 in Social Work: Children & Families
 - 3 in Commissioning & Business Development
 - 1 in Learning & Schools
 - 2 in Public Health
- 43 employees in Communities & Environment
 - 32 in Construction Services
 - 6 in Development, Transport & Public Protection
 - 5 in Facilities Management
- 75% females
- 25% males
- Lowest grades affected
 - 52 employees at grade D £16,772 – £17,547
 - 2 employees at grade E £17,891 - £19,939
 - 29 employees at grade F £21,057 - £23,166
- Highest grades affected
 - 2 employees at grade N £43,387 - £46,240
 - 8 employees at grade L £37,858 - £40,619
 - 36 employees at Grade K, K+1 and K+2 increments £35,093 – £39,660
 - 88 employees at Grade I/J and Grade J £29,854 - £35,093.
- Types of posts affected – Social Workers, Occupational Therapist, Contact Officer, Evening Domiciliary Care Worker, Reablement Officer, Area Supervisor, Contract Surveyor, Building Surveyor, Assistant Manager, Highways Engineer, Electrical Engineer.

Employee impact of moving all employees protected on 35h 50m to 37h working week

252 employees would be affected (5.6% of the workforce)

- 73 employees in Care, Wellbeing & Learning
 - 44 in Adult Social Care and Independent Living
 - 1 in Children and Families Support
 - 1 in Children's Commissioning
 - 5 in Commissioning and Business Development
 - 9 in Learning & Schools – Education Gateshead
 - 12 in Social Work - Children and Families
 - 1 in Commissioning and Business Development
- 85 employees in Communities & Environment
 - 4 in Construction Services
 - 9 in Council Housing Design and Technical Services
 - 38 in Culture Communities Leisure and Volunteering
 - 22 in Development, Transport & Public Protection
 - 2 in Facilities Management
 - 7 in Waste Services, Fleet Management & Grounds Maintenance
 - 2 in Economic and Housing Growth
- 65 employees in Corporate Resources
 - 13 in Corporate Finance
 - 43 in Customer & Financial Services
 - 10 in ICT Services
- 24 employees in Corporate Services and Governance
 - 2 in Corporate Commissioning and Procurement
 - 14 in Human Resources & Litigation
 - 8 in Legal Democratic and Property Services
- 5 employees in Policy, Performance and Communications
- 73% females
- 27% males
- Lowest grades affected
 - 22 employees at grade B/C £15,238 - £16,191
 - 24 employees at grade D £16,772 – £17,547
 - 31 employees at grade E £17,891 - £19,939
 - 25 employees at grade F £21,057 - £23,166
- Highest grades affected
 - 4 employees at grade N £43,387 - £46,240
 - 13 employees at grade L £37,858 - £40,619
 - 15 employees at Grade K & K+1 £35,093 – £38,789
 - 17 employees at grade J £32,164 - £35,093

Types of posts affected – Day Centre Officers, Social Workers, Assessing Officers, Operational Support Assistants, Senior Library Assistants and Library Assistants, Senior Clerks