

 EMPLOYMENT COMMITTEE 23rd MARCH 2016		Agenda Item No. 6
Title	Review of Staff Terms & Conditions of Employment	
For further information about this report please contact	Richard Hall/Tracy Darke	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	3 rd September 2015 Executive Committee	
Background Papers		
Contrary to the policy framework:	Yes/No	
Contrary to the budgetary framework:	Yes/No	
Key Decision?	No	
Included within the Forward Plan? (If yes include reference number)	No	
Equality Impact Assessment Undertaken	Yes/No	
Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	14/3/16	Chris Elliott/Andrew Jones/Bill Hunt
Head of Service	14/3/16	Chris Elliott
CMT	14/3/16	Chris Elliott/Andrew Jones/Bill Hunt
Section 151 Officer	14/3/16	Mike Snow
Monitoring Officer	14/3/16	Andrew Jones
Finance	14/3/16	Mike Snow
Portfolio Holder(s)	14/3/16	Andrew Mobbs
Consultation & Community Engagement		
<p>The review has been the subject of a full consultation programme with all staff and with the Trade Unions.</p> <p>At various stages the review has been discussed at the Joint Communication Forum (3.11.15 and 16.2.16) and it has been reported to the Members and Trade Unions Panel (10. 12.15 and 24.2.16 and 17.3.16)</p>		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		
<p>Although Employment Committee can approve the principle of changes to terms and conditions, any settlement with regard to funding for a 'buy-out' of current arrangements will be a decision for Executive.</p> <p>A decision on the financial implications will be sought from the Executive on April 6th 2016.</p>		

1. **Summary**

- 1.1 The purpose of this report is to explain the process of engagement and consultation with employees in relation to the proposed changes to staff terms and conditions. It also sets out the proposed position going forward, taking into account the feedback received from staff and trades unions.
- 1.2 The Terms and Conditions Review Board was set up to review staff terms and conditions of employment in order to identify potential savings and to harmonise various existing anomalies in the way in which they are applied. However, the key change to the formal package of proposals is the withdrawal of the Essential Car User Allowance (ECUA) lump sum payments.
- 1.3 The indicative level of savings on the Council's budgets from the revised package of proposals is in the region of £113,250 annual savings from the General Fund and an additional £45,000 from HRA.
- 1.4 The report also sets out a process and timeline for achieving the change to staff terms and conditions.

2. **Recommendations**

- 2.1 That the Employment Committee approves the adoption, following the appropriate consultation period after Employment Committee, of a revised package of changes to terms and conditions, as set out below:
 - a) The withdrawal of the Essential Car User Allowance (ECUA) lump sum payments both for existing and future members of staff.
 - b) Introduction of uniform mileage rate based on HMRC rate, currently 45p per mile, for all business mileage replacing essential car user mileage rates.
 - c) Introduction of a uniform mileage rate based on the HMRC rate (currently 45p per mile), for all business mileage replacing casual car user mileage rates.
 - d) The introduction of the HMRC rates, (currently 20p per mile), for mileage incurred when using a bicycle on Council business.
 - e) Increase to the HMRC Motorcycle rate, (currently 24p per mile), for mileage incurred when using a motorcycle on Council business.
 - f) The withdrawal of a contractual right to a Warwick District Council car parking pass. This will be replaced by issuing car parking passes as a discretionary benefit that could be removed if necessary in the future.
 - g) The withdrawal of the Weather Wear allowance payments.
 - h) The withdrawal of the Homeworking Allowance payments.
 - i) The withdrawal of land line Telephone and Broadband rental.
 - j) The withdrawal of a contractual right to Subsidised Sports facilities. This will be replaced by access to subsidised sports facilities as a discretionary benefit that could be removed if necessary in the future.

NB Full details of these proposals are set out in Appendix 1 First Proposals

- 2.2 That the Employment Committee approves the approach to revising the terms and conditions related to Essential Car User Allowance (ECUA) as set out in this report (para 3.8) subject to approval of funding at Executive Committee in April 2016.
- 2.3 The Employment Committee agrees that officers continue to review terms and conditions of employment as part of a phased approach outlined in Appendix 1. This will include a review of:
- a) Enhanced overtime payments
 - b) Use of standby payments
 - c) Subsistence policy and payments

3. **Reasons for the Recommendations**

- 3.1 A review of staff terms and conditions has been undertaken. The initial purpose of the review was to identify potential savings to help the Council meet its Medium Term Financial Strategy targets as agreed at the 3rd September 2015 Executive Committee.
- 3.2 It has been apparent for some time that anomalies existed across the Council for a range of contractual payments. The review, therefore, also sought to put forward proposals to harmonise conditions across the Council.
- 3.3 A survey completed by West Midlands Employers has also indicated that Warwick District Council is not consistent with other authorities in continuing to pay, for example, Essential Car User Allowance (ECUA) lump sum and car mileage rates that are in excess of HMRC mileage rates.
- 3.4 Following the review, proposals for changes to terms and conditions were formally consulted upon with staff and unions, in line with the attached consultation programme and within the timeline as set out in Appendix 2.
- 3.5 The consultation proposals indicated potential changes and the rationale for them; feedback was invited to the proposals from individuals and unions.
- 3.6 On the 15th January 2016 a response to the consultation feedback was circulated to all staff by the Terms & Conditions Review Board, along with 'Final' consultation proposals. This also set out the reasons for making the recommendations. See Appendix 3 Responses to First Proposals and Final Proposals. On the 29th Jan this was updated with a 'buy out' proposal for the ECUA, as per Appendix 4 Addendum to Final Proposals. On the 25th Feb 2016 there was a further update to the Addendum to Final Proposals, as per Appendix 5. Despite these changes the consultation programme schedule has been adhered to with unions and staff throughout period.
- 3.7 During the course of the consultation both management and the Unions have worked to reach a collective agreement to vary conditions of employment. This has included the introduction of the offer of a buyout to all members of staff currently in receipt of an Essential Car User

Allowance (ECUA). The final buyout offered was the equivalent of individuals retaining their ECUA at their current rate for a period of two years, or the equivalent amount spread over three years. In other words the relevant staff would retain getting the ECUA paid pro rata monthly (as they do now) for two years. On the 10th March 2016 these proposals were rejected by the Trades Unions.

3.8 On the 14th March ongoing communication has resulted in a further proposal of a 1 year lump sum (with claw back pro-rata for those leaving within the year) in 2016 and the equivalent in 2017 with the same claw back provision. Discussions are continuing and it is hoped that agreement may be able to be reached prior to Employment committee. An update on this will be provided for the meeting.

3.9 Section 8 of this report provides more details of the various proposals put to staff and the Trades Unions.

4. **Policy Framework –**

4.1 The report seeks to change the Council's existing offer of terms and conditions to staff. There is an impact on contracts of employment. It is for this reason that there has been a concerted effort to seek agreement with staff and Unions on these issues throughout the process.

4.2 **Fit for the Future –** The Fit for the Future report to Executive of 3rd September 2015 included plans to achieve savings of £145,000 in relation to car allowances and mileage. Subsequently, the review sought to identify how these savings could be achieved along with the other proposals identified in 2.1. The proposals are therefore wholly consistent with the **Money** strand of Fit for the Future which seeks to achieve a sustainable balanced budget. The proposal is unlikely to affect the **Service** strand which aims to maintain or improve services but may affect the **People** strand which is to support our staff through change.

4.3 **Impact Assessments –** These are set out at Appendix 6. Further to consultation it is not considered that any particular group or sector of staff will be dealt with unfairly.

5. **Budgetary Framework**

5.1 The budget implications for the proposed 'buy out' will be funded from the Service Transformation Reserve Budget and Housing Revenue Account (HRA) Capital Investment Reserve and subject to a separate report to Executive Committee on April 6th. The estimated cost to the Service Transformation Fund is £92,600 and £45,000 to the HRA Capital Investment Reserve per annum for 2 years. Therefore, the planned general fund savings will be achieved with a defrayed impact on staff.

5.2 The Council's Budget and Medium Term Financial Projections assume that the Terms and Conditions review will generate savings of £145,000 per annum to the General Fund, and proportionate savings to the Housing Revenue Account. If the review does not generate these savings, the

Council will need to seek alternate savings. Finding additional savings is becoming increasingly difficult without impacting upon services.

- 5.3 The "buy out" is intended to mitigate the impact upon staff from stopping the ECUA.

6. **Risks**

- 6.1 The risk of not reaching a Collective Agreement is that we enter into a process of 'Termination and Offer of Re-engagement'. The main disadvantage of this would be that we are ending the employment of the individual. The advantages are that it should increase the sign up rate as employees are more likely to agree terms in the current economic climate. Even if an employee were to win at a Tribunal they would be reinstated on the new Terms and Conditions.
- 6.2 Consideration of individual circumstances would be necessary if staff are unable to perform their required duties.
- 6.3 As highlighted in 5.2 that if the proposals for revisions to the Terms and Conditions are not approved the Council will then need to find similar scale savings from elsewhere with potential effects on services and jobs as a result.

7. **Alternative Option(s) considered**

- 7.1 The Terms and Conditions Review Board assessed a number of options during the consultation process; Unions, individual staff and teams also provided a variety of options. These included:
- Charging for car parking
 - 50% Charge for Professional Subscriptions
 - Reduced Absence Pay
 - Reduced Redundancy Pay
- These have all been considered and responded to, together with bringing forward the phase two proposals. The suggestions and feedback led to an amendment of the first proposals. The final consultation proposals took account of alternatives, where possible.
- 7.2 If no collective agreement is reached with the unions to vary terms and conditions as outlined in the recommendations, management cannot impose amendments to existing contracts. The options to change contracts would then be to:
- a. seek to reach agreement with individuals to the new terms and conditions.
 - b. terminate contracts and offer re-engagement on revised contracts of employment to those staff who have not agreed to the changes to their terms and conditions.
- 7.3 It should be noted that no 'buy out' will be payable to staff in the event that agreement is not reached and it is necessary to implement a termination and re-engagement process.

7.4 Process and Timeline to move forward:

7.4.1 The termination and re-engagement route is not a preferred option but is a route that other Councils have adopted. At the time of the report this remains the subject of negotiation.

7.4.2 An indicative timeline for achieving the changes and realising the associated benefits is set out below:

Date	Action
Up to 23 rd March 2016	Continue to work towards reaching collective agreement with the Unions to vary terms and conditions as detailed above
23 rd March 2016	Employment Committee
6 th April 2016	Executive Committee
29 th March 2016	If agreement is reached, all staff will be given 4 weeks' notice of the changes to their terms and conditions of employment.
1 st July 2016	Implement revised terms and conditions

7.4.3 Should it not be possible for an agreement to be reached the suggested timeline for further action is set out below.

Date	Action
Up to 23 rd March 2016	Continue to work towards reaching collective agreement with the Unions to vary terms and conditions as detailed above
23 rd March 2016	Employment Committee
6 th April 2016	Executive Committee
29 th March 2016	Issue letters to all staff seeking individual agreement to change terms and conditions on a voluntary basis
29 th April 2016	Commence 12 week termination and re-engagement process for those staff who have not voluntarily agreed to change their terms and conditions and continue to seek voluntary agreement to changes throughout the notice period
25 th July 2016	Implement revised terms and conditions

8. Background

8.1 Following the review of terms and conditions, proposals for amendments were put to staff through the standard consultation process. Feedbacks on the first proposals were invited. On the 15th January 2016 the Terms & Conditions Review Board responded to the comments from staff and Unions. The first proposals were significantly altered as a result of the feedback received and the amended, 'final' proposals were also circulated on the same date, see Appendix 3.

8.2 Further feedback was invited on these final proposals and as a consequence the proposals, as in Appendix 7 were put forward, these have now been updated since and detailed as in 8.5

- 8.3 The proposals have been drafted in two phases. Those which can deliver savings in the 2016-17 financial year and those in Phase 2 which can deliver savings in the following year. The Phase 2 issues are those which will take more time to assess. Further reports will be brought to Committee once proposals have been drafted and consulted upon, within the next 12 months.
- 8.4 In summary the majority of changes have been generally accepted as reasonable. Some are largely supported, others not necessarily supported but not opposed. There are a variety of views, depending on how individuals are personally affected. The main issue has been the financial impact, for the 117 Staff, of the proposed change to the Essential Car User Allowance (ECUA). It has therefore been the main area of focus during negotiation with the unions.
- 8.5 Initial proposals suggested the removal of the allowance with varying options. Further to consultation on the final proposals a 'buy out' from the essential car user allowance scheme was offered to those members of staff currently in receipt of Essential Car User Allowance (ECUA), subject to a collective agreement being reached to vary conditions of employment. Unions rejected the initial 'buy out' issued on 29th Jan 2016 proposal of 75% of one year's ECUA
 A second proposal was issued on 25th Feb 2016
 Year 1 - 100% of ECUA
 Year 2 - 66% of ECUA
 Year 3 - 33% of ECUA
 As part of feedback received, an additional option was put on 3rd March 2016 of:
 Year 1 - 100% of ECUA
 Year 2 - 100% of ECUA
- 8.6 Unions rejected the above offer on 10th March 2016 and submitted new proposals on the 14th March. Further communication on the 15th March 2016 has resulted in agreement from the unions on all proposed changes except the ECUA, we have now proposed the following final offer:
 Year 1 2016 -
 100% of ECUA as an upfront payment, with a clause for payback if leaving the council within the year on a pro-rata basis.
 Year 2 2017 -
 100% of ECUA as an upfront payment, with a clause for payback if leaving the council within the year on a pro-rata basis.