

TRAFFORD COUNCIL

Report to: Executive
Date: 3rd December 2013
Report for: Decision
Report of: Deputy Leader of the Council

Report Title

Proposed Changes to Staff Terms and Conditions

Summary

This report provides an update on the outcome of the statutory consultation that has taken place in relation to proposed changes to staff terms and conditions. It also sets out a proposed position going forward, taking into account the feedback received from staff and trade unions.

The key change to the formal package of proposals is the removal of the SCP 28 cut-off point in relation to the Critical Car User Scheme.

The revised package of proposals set out in this report for Members' consideration is:

- **Withdrawal of the Essential Car User Scheme for all staff and introduction of a Critical Car User Scheme, with a revised assessment criteria and reduced lump sum allowance of £423 per annum;**
- **Introduction of a uniform mileage rate based on the HMRC rate (currently 45p per mile);**
- **Reduction in the sick pay scheme to a maximum of 3 months full pay and 3 months half pay;**
- **Introduction of a mandatory 3 days unpaid leave for a temporary period of 2 years;**
- **Introduction of a Trafford "Living Wage" of £7.20 for the lowest paid staff;**
- **Reduction in the rate of pay for non-contractual overtime to plain time;**
- **Removal of the relocation allowance for enforced moves within the borough (Appendix E payments)**

The indicative level of savings on the Council's revenue budget from the revised package of proposals is in the region of £1.9m.

The report also sets out a process and timeline for achieving the change to staff terms and conditions.

Recommendations

That the feedback from the formal consultation process is noted;

That the Executive notes the decision of the Employment Committee in adopting a revised package of changes to staff terms and conditions approved for implementation with effect from 1st April 2014 and notes the financial implications of implementing that decision..

Contact person for access to background papers and further information:

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Background Papers: Report to the Executive (23rd September 2013)
Formal Proposed Changes to Staff Terms and Conditions
Full Staff Feedback on Formal Proposals

Relationship to Policy Framework/Corporate Priorities	These proposals align with the council's Corporate Priorities in respect to 'Low Council Tax and Value for Money' and 'Reshaping Trafford Council'.
Financial	The staff terms and conditions proposals aim to achieve savings in the region of £1.9m to support the 2014/15 budget. The draft budget recently agreed by the Executive included a sum of £1.96m in savings from revised terms and conditions; the additional cost will have to be factored into the final budget proposals that the Council will agree in February 2014.
Legal Implications:	The implementation process will be fully compliant with employment legislation.
Equality/Diversity Implications	An Equality Impact Assessment is being undertaken in line with the Equality Framework.
Sustainability Implications	None
Staffing/E-Government/Asset Management Implications	The implementation process may impact upon staff morale and employee engagement.
Risk Management Implications	There are employment risks associated with these proposals. These relate to potential industrial action and ultimately a failure to accept the proposals, which would disrupt services; there is also a risk of litigation in relation to claims for unfair dismissal and breach of contract.
Health & Wellbeing Implications	As above, the proposals may impact on staff health and wellbeing; support is available via existing health management procedures.

Health and Safety Implications	None
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1. BACKGROUND

- 1.1 In October 2012, as part of the budget consultation process, the Council began early engagement with staff and trade unions about potential changes to staff terms and conditions.
- 1.2 This early engagement involved sharing ideas with the workforce and recognised trade unions about changes to terms and conditions which might realise significant savings and thus mitigate potential job losses going forward. These ideas were subsequently developed into a package of draft proposals, which were subject to a period of informal consultation.
- 1.3 A final package of proposals was put to the workforce and the trade unions on 3rd October 2013, when the Council issued a S.188 notice. This marked the commencement of a statutory 45 day consultation period which ended on 17th November 2013.
- 1.4 The 12 month period of engagement with staff and trade unions was a dynamic process with regular interaction to inform the development of proposals. In addition, there was continuous engagement with the Corporate Management Team, Employment Committee and the Executive, who received regular reports throughout the various stages of consultation.
- 1.5 This report provides a summary of the feedback received during the period of formal consultation and sets out a final proposal and implementation strategy for changes to staff terms and conditions, which are recommended for approval.

2. FORMAL CONSULTATION

- 2.1 On 3rd October 2013, the Council issued a S.188 notice to the recognised trade unions. This notice marked the commencement of a statutory 45 day consultation period on the following proposed changes to staff terms and conditions:
 - Withdrawal of the Essential Car User Scheme for all staff and introduction of a Critical Car User Scheme, with a revised assessment criteria and reduced lump sum allowance, applicable only to those staff at SCP28 and below;
 - Introduction of a uniform mileage rate based on the HMRC rate (currently 45p per mile);
 - Reduction in the sick pay scheme to a maximum of 3 months full pay and 3 months half pay

- Introduction of a mandatory 3 days unpaid leave;
- Introduction of a Trafford “Living Wage” of £7.20 for the lowest paid staff
- Reduction in the rate of pay for non-contractual overtime to plain time
- Removal of the relocation allowance for enforced moves within the borough (Appendix E payments)

2.2 The framework for the statutory period of consultation mirrored that which had been adopted for the previous consultation processes which had taken place in December 2012 and June 2013. The formal process included a series of 11 staff information sessions, led by a Corporate Director, a member of the HR Leadership Team and an Elected Member. As in the preceding consultation exercises, these sessions were very well attended and generated lively discussion and feedback from the workforce. In addition, dedicated intranet pages were developed, direct mailshots were sent out to all staff (including absent staff) and formal weekly meetings were undertaken with the trade unions.

2.3 In order to gauge the general feeling from the workforce, a staff survey was also undertaken. The purpose of the survey was to assess whether or not staff would be willing to accept the proposals on a voluntary basis, should the Council be unable to secure a collective agreement with the recognised trade unions.

2.4 The period of formal consultation concluded on 17th November 2013 and a significant amount of feedback was once again received from staff and the trade unions. A copy of the formal trade union feedback received from Unison can be seen at Appendix 1; GMB have indicated that the formal issues raised by Unison were of a similar concern to them. A summary of the staff feedback is at Appendix 2.

2.5 Trade Union Feedback

2.5.1 In summary, trade union colleagues were clear that they would not be able to sign up to the package of proposals as a whole as they represented an erosion of staff benefits in relation to national terms and conditions.

2.5.2 There was a particular strength of feeling from the trade unions about the changes relating to car users and whilst they welcomed the Council’s shift to introduce a Critical Car User Scheme, they were particularly dissatisfied with the proposed cut-off point of SCP28, which they considered to be arbitrary; they were also dissatisfied with the 50% reduction in the value of the proposed CCU allowance and in addition, it was their view that the introduction of a uniform HMRC mileage rate represented a pay cut for casual car users. Their stance was that there should be no changes made in relation to car users and that the status quo should remain.

- 2.5.3 There was also a particular strength of feeling from the trade unions about the reduction in the sick pay scheme; their concern was that this proposal represents an erosion of a nationally agreed condition of service, which they cannot support. The trade union stance was that this national condition of service should remain.
- 2.5.4 In terms of the 3 days' mandatory unpaid leave, the view of the trade unions was that this also represented a pay cut and would not be workable in some service areas such as school catering, which they believed should be exempt. It was their view that the savings should be achieved through a voluntary unpaid leave system rather than a mandatory system.
- 2.5.5 The trade unions welcomed the Council's proposal in relation to the introduction of a Trafford Living Wage, however, they had a particular view that it should not be conditional upon the introduction of the other proposals; rather, it should sit as a standalone proposal. It was also the trade union view that the Council should enforce a Trafford Living Wage in all future contract specifications.
- 2.5.6 In terms of a reduction in the rate of pay for overtime, it was the trade union view that the use of overtime should be reviewed and that the Council should either employ additional staff or offer existing staff additional hours; in the interim, it was their view that the rate of pay should remain the same. In so far as the relocation allowance goes, the trade union view was that to remove it would be a breach of contract and that again, the allowance should remain.
- 2.5.7 In summary, the trade unions stated that they could not agree with the proposals although they offered no alternative solutions. They added, however, that they remained committed to the consultation process.
- 2.5.8 The trade unions also explained that subject to the Council's final position in relation to proposed changes to staff terms and conditions, it was their intention to undertake an indicative ballot of the workforce to gauge whether or not staff would be willing to consider industrial action or "action short of strike".

2.6 Staff Feedback

- 2.6.1 In terms of staff feedback, this generally reflected the position of the trade unions, with the changes relating to car users receiving the greatest volume and strength of feedback.
- 2.6.2 Reflecting the trade union stance, whilst staff welcomed the introduction of a Critical Car User Scheme, they were dissatisfied with what they perceived to be an arbitrary cut-off point at SCP28. This strength of feeling came from across the workforce, at all levels, from managers to front line workers. The

general view was that there should not be a cut-off point and that all relevant staff should be assessed against the new CCU criteria, irrespective of their salary level.

- 2.6.3 In relation to the proposed changes to the sick pay scheme, the strength of feeling from staff during the period of formal consultation was greater than on previous occasions and the general feeling was that it was a severe measure to take and was disproportionate in relation to the savings that would be achieved; the preferred option would be for managers to take a more consistent and robust approach to managing absence.
- 2.6.4 In terms of the proposal to introduce a mandatory 3 days' unpaid leave, the general feedback from staff remained as it had done in the previous consultation exercises; comments received included concerns that due to work pressures, staff were not always able to take their current contractual leave entitlement and that these additional days would just increase stress levels and seriously affect service delivery. There was also a concern about how some services would manage operationally and that some may need to backfill with agency or overtime leading to an additional cost, which could result in them not being competitive. Staff also felt that it would be better if the unpaid leave could be introduced on an entirely voluntary basis, rather than mandatory. Conversely, there were some positive views expressed about this proposal and a number of staff expressed that they would welcome the proposal, in particular the proposal for additional voluntary unpaid leave of up to 7 days in addition to the mandatory days.
- 2.6.5 In terms of the proposals relating to the introduction of a Trafford Living Wage, the reduction in non-contractual overtime payments to plain time and the proposal to withdraw the relocation allowance, there was little strength of opposition and staff were generally supportive of these proposals being taken forward. The limited concern related mainly to a concern that services that had been reliant upon non-contractual overtime would struggle to deliver core services as staff would not do the work for plain time and some staff also felt that the relocation allowance should be phased out rather than fully withdrawn.
- 2.6.6 With regard to the feedback received from the staff survey, a total of 1086 employees responded, representing 38% of the workforce. Of those that responded 74% (802) stated that they would be willing to sign up to the proposals on a voluntary basis and 26% (284) stated that they would not be willing to sign up to the proposals.

3. PROPOSED REVISED PACKAGE OF PROPOSED CHANGES TO TERMS AND CONDITIONS

3.1 Taking into account the detailed staff and trade union feedback and also taking into account the outcome of the staff survey, a review of the package of proposals has been undertaken; this review has included a reassessment of projected savings.

3.2 Further to this review, a revised package of proposals has been developed; it is recommended that these proposals represent the Council's final position in terms of a revised package of changes to terms and conditions. Details of these proposals are set out below.

3.3 Car User Allowances

3.3.1 It is recommended that the proposal to withdraw the Essential Car User (ECU) Scheme remains and that this scheme is replaced by a Critical Car User (CCU) Scheme, with robust assessment criteria, as set out in Appendix 3. Given the strength of feeling from the formal consultation feedback, however, it is recommended that the proposal of a cut-off point at SCP28 should not be adopted and that all existing ECUs remain eligible for assessment under the new CCU Scheme. The removal of a cut-off point will mean that the pool of staff eligible to be assessed for a CCU allowance will increase, which will ultimately mean that the number of staff who will meet the criteria for receiving the allowance will increase.

3.3.2 With reference to the value of the new allowance and in order to maintain a sufficient level of saving, it is recommended that the value remains as in the original proposal, i.e. it is reduced from its current value of £846 per annum, to a new value of £423 per annum. For clarity:

- only staff who are currently designated as ECUs will be eligible to be assessed against the CCU criteria;
- no new users will be eligible for assessment under the CCU Scheme;
- once the CCU pool is identified, that pool will be frozen;
- any new recruits will be employed on contracts which specifically require them to have access to a suitable vehicle in order to fulfil their contractual duties, without the lump sum recompense.

3.3.3 Whilst definitive numbers and savings cannot be confirmed until the CCU assessment process is complete, it is estimated that this revised approach will significantly reduce the number of staff eligible to receive the allowance.

- 3.3.4 In terms of the formal proposal to shift the car mileage rate to a uniform rate, based upon the HMRC rate (currently 45p per mile), the conclusion is that this remains a sound proposal, which will not only realise savings but will also simplify financial systems with respect to annual tax returns. In practice, this means that the current ECU mileage rate would increase from 40.9p per mile to 45p per mile but that the Casual Car User mileage rate would reduce from 52.2p per mile to 45p per mile.
- 3.3.5 In addition, it is recommended that the proposal to undertake a general review of car journeys across all service areas should remain, with a view to reducing these by an estimated 10% over the next 12 months. This review will specifically focus on challenging the requirement to travel to external meetings and will promote the use of the Council's investment in technology, making practices such as conference calls and video conferencing the norm, rather than the exception.
- 3.3.5 It is estimated that proposals relating to car allowance and mileage rates will equate to savings in the region of £400k.

3.4 Reduction in the Sick Pay Scheme

- 3.4.1 The sick pay scheme is based on the National Joint Council (NJC) scheme and gives an entitlement to sick pay on a sliding scale, based on length of service. The maximum entitlement once an employee has completed 5 years of Local Authority service is 6 months full pay, and then 6 months half pay. The entitlements are detailed in the table below:

During 1 st year of service	1 month's full pay and (after completing 4 months service) 2 months half pay
During 2 nd year of service	2 months full pay and 2 months half pay
During 3 rd year of service	4 months full pay and 4 months half pay
During 4 th /5 th year of service	5 months full pay and 5 months half pay
After 5 years of service	6 months full pay and 6 months half pay

- 3.4.2 For the year ending June 2013, the Council paid out in the region of £1.4m in sick pay. In addition to the spend on actual sick pay, there is also a cost to cover absent staff in terms of overtime and agency spend as well as the indirect cost of low staff morale for those colleagues who have to sustain service delivery.
- 3.4.3 The proposal was for the sick pay scheme to be reduced to a maximum of 3 months' full pay and 3 months' half pay, subject to continuous service.
- 3.4.4 Whilst the trade unions have continuously argued against a change to the sick pay scheme, as set out in paragraph 2.5.3, this stance was echoed by staff

during the formal consultation period and their strength of feeling was much greater than had been seen previously. Whilst this strength of feeling cannot be overlooked, it has had to be carefully balanced against the potential savings achievable. These savings have been estimated as being in the region of £250k.

- 3.4.5 The recommendation therefore is that this proposal remains and that staff receive an entitlement to sick pay on a sliding scale based on length of service, as set out in the table below:

During 1 st year of service	1 month's full pay and (after completing 4 months of service) 2 month's half pay
During 2 nd year of service	2 month's full pay and 2 month's half pay
After 2 years of service	3 month's full pay and 3 month's half pay

- 3.4.6 In terms of recognising the staff and trade union concern that this proposal will have a significant impact on vulnerable employees, the provision to extend the payment of sick pay beyond the contractual entitlement in exceptional circumstances will remain and it is recommended that requests are submitted for consideration and sign-off by the Chief Executive, in consultation with the Directors of Finance and HR. This will ensure that there is consistency of application across the organisation.

- 3.4.7 In addition, it is recommended that in order to provide all staff with a fair starting point on 1st April 2014, that they receive a fresh occupational sick pay entitlement, based upon their continuous service. Therefore, any occupational sick pay that has been paid out prior to this date will not be taken into account for any new periods of absence. It should be noted that this arrangement is only in relation to sickness payments and does not mean that periods of absences will be excluded for managing attendance purposes. In addition, this arrangement exempts statutory sick pay, which can only be paid out for a maximum of 28 weeks. Arrangements in relation to staff who are absent due to sickness at the point the new sick pay scheme is introduced will be considered further, should these proposals be agreed.

- 3.4.8 In terms of the health and well-being of the workforce, the Council will remain committed to ensuring that all employees have access to support services such as Occupational Health, Counselling, Physiotherapy as well as preferential rates for Private Health Insurance via General and Medical which will support those staff who may require extra support during periods of long-term absence.

3.5 Mandatory 3 days' unpaid leave

- 3.5.1 Under the formal consultation process, the proposal was that all staff would be required to take a period of 3 days' mandatory unpaid leave and that this would be reviewed at the end of a 2 year period. Furthermore, there was a

voluntary option for staff to take a further 7 days unpaid leave, should they wish to apply for it. Whilst there was a high level of feedback on this proposal, the feedback was mixed and some staff welcomed the idea of being able to take additional time off, even if this was unpaid.

3.5.3 Given the significant savings associated with this proposal and the fact that it is a temporary measure, to be reviewed in 2 years' time, it is recommended that this proposal is taken forward.

3.5.4 As part of the consultation, however, a commitment was given to assessing exemptions from the 3 days' mandatory leave. This assessment is currently being undertaken by the Corporate Management Team and to date, the following job categories have been agreed as being exempt:

- Catering, Cleaning, School Crossing Patrol staff and Passenger Transport Assistants, employed within the Operational Services for Education Service;

These exemptions will be reviewed on an annual basis at the beginning of each financial year.

3.5.5 Given that these exemptions are in service areas which trade on a recovery basis, there will be no resultant impact on the revenue budget and savings will remain as originally estimated at £574k.

3.6 Introduction of a "Trafford Living Wage"

3.6.1 The commitment throughout consultation has always been to increase the hourly rate of pay for the lowest paid workers to a Trafford Living Wage of £7.20 per hour. This proposal has been positively welcomed and is therefore recommended for implementation.

3.6.2 Furthermore, the recommendation is that the Council will encourage contractors and education establishments in the borough to adopt a Trafford Living Wage with respect to their workforce.

3.6.2 For clarity, the Trafford Living Wage will be established as a set hourly rate and will thus not affect the Council's pay and grading structure. In order to ensure that this minimum hourly rate is maintained, staff will not be subject to the period of 3 days' mandatory leave, until such time as they reach SCP10 or above.

3.7 Reduction in the rate of pay for non-contractual overtime

3.7.1 In 2012/13, the Council paid out almost £1.5m in non-contractual overtime. Given the limited negative feedback on this option from staff and trade unions

it is recommended that this proposal remains and that all non-contractual overtime is paid at plain time rate.

3.7.2 It is estimated that this proposal will achieve savings in the region of £160k.

3.8 Removal of Relocation Allowance

3.8.1 In 2012/13, 146 employees claimed this allowance, totalling £68k for the year. The average claim was £50 per month.

3.8.2 Given the limited negative feedback on this proposal and the fact that staff generally felt that employees working for Trafford Borough Council should be expected to work at any location in the borough, without being paid an additional allowance, it is recommended that this proposal is also taken forward and the allowance is fully withdrawn from 1st April 2014.

3.9 Overtime and Agency Spend

3.9.1 Throughout the consultation process, there has been an overall commitment to reducing the significant Council spend on overtime and agency use. This work has been ongoing as part of the service review process and a fundamental assessment of working practices. This work will continue as we move towards the development of the new operating model.

3.9.2 It is estimated that this will realise savings of £500k.

4. REDUCTION IN ESTIMATED SAVINGS

4.1 The savings assigned to changes to staff terms and conditions was estimated as £2m.

4.2 Following the formal consultation process and the review of proposals, it is estimated that these savings will now be in the region of £1.9m.

5. PROCESS AND TIMELINE

5.1 The proposals remain a complete package of proposals and not standalone options. Given that they include a potential to change Part 2 terms and conditions and the trade unions have already indicated that they will not be able to sign up to them, it is likely that the Council will need to seek agreement to vary terms and conditions with staff at an individual level.

5.2 Given the final proposals have taken into account a number of the concerns raised by staff and trade unions, it has been suggested to the trade unions that a partial collective/local agreement should be possible. This is currently under consideration.

- 5.3 However, if a collective or individual agreement cannot be reached, then there will be a requirement to terminate and re-engage the workforce.
- 5.4 An indicative timeline for achieving the change and realising the associated benefits is set out below:

DATE	ACTION
2 nd December 2013	Employment Committee
3 rd December 2013	Executive Committee
4 th December 2013	Issue letters to all staff seeking individual agreement to change terms and conditions on a voluntary basis
6 th January 2014	Commence 12 week termination and reengagement 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
1 st April 2014	Implement revised terms and conditions

- 5.5 Given that the period of voluntary sign-up will take place in part, over the Christmas period, it is proposed to write to all staff to seek voluntary agreement to the changes immediately following the Executive on 3rd December 2013. The purpose of this is to allow staff maximum time to consider the revised proposals and respond to the letter in order to mitigate the number of termination and re-engagement letters that may need to be issued in the New Year. No formal action will be taken in relation to the sign-up process, however, until such time as any relevant call-in period has passed.
- 5.6 For clarity, no letters of termination and re-engagement will be issued before 6th January 2014 and all efforts will be made to ensure that voluntary sign-up is promoted across the workforce prior to this date. Should it be necessary to issue termination and re-engagement letters, then all efforts will be made to engage with the workforce during the 12 week notice period to try and achieve voluntary sign-up in order to mitigate the number of dismissals
- 5.7 The decision in relation to proposed changes to staff terms and conditions will be made by the Employment Committee on 2nd December 2013. This will be followed by an Executive decision on the financial impact on the budget on 3rd December 2013.

Finance Officer Clearance (type in initials).....ID.....

Legal Officer Clearance (type in initials).....mj.....

A handwritten signature in black ink, appearing to read "C. Harte".

CORPORATE DIRECTOR'S SIGNATURE (electronic).....

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.