

## TRAFFORD COUNCIL

**Report to:** Employment Committee  
**Date:** 18<sup>th</sup> January 2016  
**Report for:** Approval  
**Report of:** Acting Director of HR

### Report Title

**Staff Terms and Conditions – Outcome of Consultation on the Proposed Extension of Mandatory Unpaid Leave**

### Recommendations

**It is recommended that the Employment Committee:**

- **approves the proposal to extend the 3 days' mandatory unpaid leave provision for one further year**
- **approves a simplified system for taking additional unpaid leave, allowing staff to spread the cost over a 12 month period**
- **agrees to a review of the temporary arrangement towards the end of 2016**

Contact person for access to background papers and further information:

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Relationship to Policy Framework/Corporate Priorities	This proposal aligns with the council's Corporate Priorities in respect to 'Low Council Tax and Value for Money' and 'Reshaping Trafford Council'.
Financial	The proposal to extend unpaid leave will achieve savings in the region of £0.5m to support the 2016/7 budget savings.
Legal Implications:	The implementation process will be fully compliant with employment legislation.
Equality/Diversity Implications	An Equality Impact Assessment has been undertaken in line with the Equality Framework and is available to members of the committee as part of this report.
Sustainability Implications	None
Staffing/E-Government/Asset Management Implications	The implementation process may impact upon staff morale and employee engagement.
Risk Management Implications	The risks associated with these proposals are low to medium. They relate to potential industrial action and a possibility that staff may not accept the extension to unpaid leave. This may impact on service delivery and may also lead to 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

## **1.0 BACKGROUND**

- 1.1 Further to the consultation which took place during 2013, the Council implemented a package of changes to employee terms and conditions, effective from 1<sup>st</sup> April 2014. These changes included the introduction of 3 days mandatory unpaid leave for a temporary period of two years (1<sup>st</sup> April 2014 to 31<sup>st</sup> March 2016).
- 1.2 Initially, it was intended that the 3 days mandatory unpaid leave arrangements would be applied to all employees; however, following the submission of a number of business cases, some service areas were granted exemptions; this was on the basis that they were either providing direct services to SEN/children or were in a trading position. The exempt services are: Catering Operations; Cleaning Support; Trafford Transport Provision; Sanyu Daycare Centre; Partington & Carrington Children's Centres and SEN Teaching Assistants. Apprentices were also granted an exemption due to their low hourly rate of pay, which is typically £3.30 an hour.
- 1.3 The total savings associated with the 3 days unpaid leave over the two year period has been £1.05m and since implementation, no significant issues have been raised by staff, management or the trade unions.
- 1.4 The contractual variation was implemented subject to a review towards the end of the two year period. This review was undertaken during October 2015.

## **2.0 THE REVIEW AND SUBSEQUENT PROPOSAL**

- 2.1 When the changes were implemented, it was agreed that as part of the review process, the number of requests for additional unpaid leave (over and above the 3 days' mandatory) would be assessed; this was in order to quantify take up and establish whether or not in the future, the unpaid leave arrangement could feasibly be adopted on a voluntary basis and still achieve the same level of savings. This would potentially negate the ongoing requirement for a mandatory arrangement.
- 2.2 Take up of additional unpaid leave has been monitored. The analysis indicates that take up has been relatively low with a total of 79 staff taking between an additional 0.5 and 7 days' unpaid leave during 2014/15. This voluntary take up would not be sufficient to negate the savings associated with the mandatory system.
- 2.3 Due to the significant savings of £0.5m per annum associated with the mandatory unpaid leave arrangement, a proposal was developed to

extend the temporary contractual variation for a further two years, until 31st March 2018. This would guarantee £1m of savings over the two year period.

- 2.4 In order to try and generate additional savings, the proposal also included a provision to encourage an increase in the take up of additional unpaid leave. This provision allowed for staff to make an advance request (prior to the beginning of the leave year) to take up to a further 7 days per annum unpaid leave, with the associated pay deductions being spread evenly across the year.

### **3.0 THE CONSULTATION PROCESS**

- 3.1 In order to ensure legal compliance with regard to consultation on the proposal, there was requirement to undertake a period of statutory consultation for 45 days; this is because ultimately, if collective or individual agreement cannot be reached on a contractual variation, the Council would need to move to a dismissal and re-engagement situation. This reflects the position that was taken back in 2014.
- 3.2 The statutory consultation exercise was aligned to the budget consultation process for 2016/17. In this respect, formal collective consultation commenced on 5<sup>th</sup> November 2015, with the issue of a S.188 notice to the recognised trade unions; consultation concluded on 19<sup>th</sup> December 2015.
- 3.3 During this period, there were four formal collective consultation meetings involving Elected Members, Senior Managers and trade union officials. The purpose of these meetings was to discuss the proposal, receive feedback and try to reach a collective agreement.
- 3.4 Running parallel with the collective consultation process, the Council also engaged directly with employees on an individual basis. Individual letters were issued to all staff, communications were posted on the intranet via the 6-boxes and the weekly update and a survey was also undertaken. The aim of this individual consultation was to seek feedback from staff on the proposal and also to obtain voluntary sign up to the extension, where possible.

### **4.0 OUTCOME OF CONSULTATION**

- 4.1 During consultation, discussions with the trade unions were productive; however, we were unable to reach a collective agreement; this is reflective of the national stance being adopted by the trade unions in respect of such changes to terms and conditions. A letter to confirm this was received from Unison on 17th December 2015. In summary, Unison's view is that staffing levels are already insufficient to meet demand, with spend on agency staff to backfill absent colleagues offsetting the savings. Their view is also that staff are already stretched to breaking point and struggle to take leave meaning that when they do, they return to a backlog of work and end up working even longer to meet demands.

Their conclusion is that the situation will only get worse with the additional budget cuts and they have asked the Council to reconsider this proposal. Whilst the comment about staff being stretched to breaking point is anecdotal, with no readily available evidence to support this either way, there is evidence to demonstrate that since the introduction of new terms and conditions in April 2014, agency spend has been closely monitored and has reduced. This has been regularly reported to the Employment Committee.

- 4.2 With regard to the individual consultation, out of the 1639 employees directly impacted by the proposal, feedback was received from 83. This represents 5% of staff affected. A breakdown of this feedback is at Appendix 1. Of those 83 staff who responded, 40% were in agreement with the proposal to extend the provision, with 55% disagreeing. The general feeling from those staff who did not agree with the proposal was that it was an unfair measure which represented a pay cut, that staff already found it difficult to take time off and that the provision should be applied on a voluntary basis, not mandatory. Detailed comments from staff can be seen at Appendix 2.
- 4.3 Feedback was also sought on the proposal to offer additional voluntary unpaid leave, with the ability to spread the cost evenly over a 12 month period. Responses to this were much more positive with 64% of the 83 staff who responded in agreement that this was a good idea. However, only 35% of respondents indicated that they would actually take up the offer.
- 4.4 In addition to seeking feedback on the proposal, employees were also invited to voluntarily sign up to the extension, should it be agreed. As at 7<sup>th</sup> January 2016, 52% of affected staff have signed up. Should the proposal be approved then those remaining staff who have not voluntarily signed up would need to be issued with notices of dismissal and re-engagement. Such notices would allow for voluntary sign up during the notice period, in order to avoid a dismissal situation, which follows the same process undertaken two years ago.
- 4.5 In response to the feedback received from staff and the Trade Unions and mindful of the desire to ultimately move to a voluntary sign up position, further consideration has been given to the period of the proposed extension.
- 4.6 The outcome of these considerations is a revised proposal of a 1-year extension period, which will be subject to a further review towards the end of 2016. This review will consider the take up of the additional voluntary unpaid leave arrangement during 2016 and thus determine the potential viability of a purely voluntary arrangement moving forwards. During 2016, active promotion of the voluntary arrangements will be undertaken.

## **5.0 CONCLUSION**

- 5.1 A legally compliant statutory consultation process has been followed in relation to this proposal and the feedback received has been reviewed and an amendment to the proposal has been made.
- 5.2 Whilst it was not possible to reach a collective agreement with the recognised trade unions, consultation has also taken place directly with employees with a view to reaching agreement at an individual level.
- 5.3 Although the feedback received shows that of the 83 staff who responded, 55% disagree with the proposal, it should be noted that this percentage represents only 66 staff out of a total of 1639 staff affected. This is equivalent to 4% of the affected workforce and should be balanced against the 52% who have already voluntarily signed up to the proposal.
- 5.4 Whilst ideally, a preferred option would be to establish the unpaid leave arrangement on an entirely voluntary basis, this unfortunately would not secure the guaranteed savings attached to the mandatory scheme. These savings equate to £0.5m per annum and are significant at a time when the Council is facing continuing budget pressures. However, as set out in paragraph 4.6 above, the aim of the revised proposal is to support a transition into a voluntary arrangement.

## **6.0 RECOMMENDATION**

- 6.1 Taking into account the feedback received, balanced against the voluntary sign up to date and the significant savings that this proposal will continue to achieve, it is recommended that the Employment Committee approves the proposal to extend the 3 days mandatory unpaid leave arrangement for one further year, until 31<sup>st</sup> March 2017 and also approves the provision for a simplified voluntary additional unpaid leave arrangement, with costs to employees being spread over a 12 month period.
- 6.2 It is recommended that this arrangement is monitored and reviewed towards the end of 2016, with a further report back to the Employment Committee at this point.