

TRAFFORD COUNCIL

Report to: Employment Committee
Date: 18th January 2017
Report for: Approval
Report of: Deborah Lucas, Acting Director of HR

Report Title

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

Recommendations

It is recommended that the Employment Committee:

- **approves the proposal to reduce the mandatory unpaid leave provision from 3 days to 1.5 days per annum;**
- **approves the proposal to extend the provision for a further year, until 31st March 2018;**
- **agrees to a review of the temporary arrangement towards the end of 2017**

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 contribute to terms and conditions related savings in the region of £0.5m to support the 2017/18 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 extensive consultation which took place back in 2013, the Council implemented a package of changes to employee terms and conditions, effective from 1st April 2014. This review included the introduction of 3 days mandatory unpaid leave for a temporary period of two years (1st April 2014 to 31st March 2016). At the time, the proposal was that this provision would be reviewed towards the end of the two year period i.e. at the end of 2015. For the period 2014 – 2016, the total savings associated with the 3 days unpaid leave was £1.05m.
- 1.2 At the end of 2015, the mandatory unpaid leave arrangement was reviewed and a proposal was presented to the Employment Committee to extend this arrangement for a further 12 months. This proposal was agreed by Employment Committee in January 2016, with a commitment that during this 12 month period, the Council would promote a voluntary unpaid leave scheme to try and mitigate the requirement for a mandatory scheme.

2.0 THE VOLUNTARY UNPAID LEAVE SCHEME

- 2.1 In line with the commitment that was given to promote a voluntary unpaid leave scheme, during the summer of 2016, the Council formally promoted this across the workforce. This scheme ran for a period of two months and was promoted widely via communications on the staff intranet site and also via the weekly staff update system.
- 2.2 An analysis of take-up of the scheme was undertaken at the end of September 2016. The analysis highlighted that a total of 435 staff had applied to take additional unpaid leave, which equated to total savings in the region of £290,000. Target savings per annum for unpaid leave is £0.5m; this meant that the shortfall for 2017/18 was projected as being £210,000.
- 2.3 In order to achieve this shortfall, a proposal was then developed to reduce the existing mandatory unpaid leave scheme from 3 days' to 1.5 days', for an extended period of 12 months, until 31st March 2018.

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 a legal requirement because ultimately, if

collective or individual agreement cannot be reached on a contractual variation, the Council needs to move to a dismissal and re-engagement situation. This reflects the position that was taken back in 2014 when the original changes were made to staff terms and conditions and also in 2016, when the mandatory unpaid leave provision was extended.

- 3.2 The statutory consultation exercise was aligned to the budget consultation process for 2017/18. In this respect, formal collective consultation commenced on 7th November 2016, with the issue of a S.188 notice to the recognised trade unions; consultation concluded on 3rd January 2017.
- 3.3 During this period, there were four formal collective consultation meetings involving the Acting Director of HR, the lead Elected Member for employment matters, Senior Managers and trade union officials. The purpose of these meetings was to discuss the proposal, receive feedback and try and 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 and regular communications were posted on the intranet via the 6-boxes and the weekly update. 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 changes to staff terms and conditions. A letter to confirm this was received from Unison on 23rd December 2016 (Appendix 1). 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. Unison asked the Council to reconsider the proposal.
- 4.2 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 there is no evidence to suggest that it has increased as a result of the introduction of mandatory unpaid leave. Agency spend has been and continues to be regularly reported to the Employment Committee.
- 4.3 With regard to the individual consultation, out of the 1,181 employees directly impacted by the proposal, 7 employees provided formal written feedback. This represents 0.6% of staff affected. A copy of the summary and the detailed feedback received is attached at Appendix 2 and Appendix 3. The feedback

relates predominantly to the following issues: that the measure constitutes a pay cut, it impacts adversely on the provision of services to the public, it impacts on individual workloads, that it is unfair and that it has an unfair impact on pensions. The feedback was collated and reviewed and all comments were responded to personally. One meeting with a directly affected member of staff also took place regarding their individual situation and the impact of the proposals on them.

- 4.4 In addition to seeking individual feedback on the proposal, employees were also invited to voluntarily sign up to the extension, should it be agreed. As at 4th January 2017, 47% of affected staff (i.e. 561 out of 1,181) had voluntarily accepted the proposal. Should the Employment Committee approve the proposal, then those staff who have not voluntarily signed up would need to be issued with notices of dismissal and re-engagement. Such notices would allow staff to voluntarily sign up during the notice period, in order to avoid a dismissal situation; this follows the same process as has previously been undertaken.

5.0 CONCLUSION

- 5.1 A legally compliant statutory and meaningful consultation process has been followed in relation to this proposal and the feedback received has been reviewed and responded to.
- 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 Out of a total of 1,181 staff impacted and directly consulted with about this proposal, only 7 provided feedback, expressing their disagreement with the proposal. This represents 0.6% of affected staff. This figure is balanced against the 561 staff, representing 47% of affected staff, who have to date voluntarily accepted the arrangement.
- 5.4 Whilst it remains an ambition to achieve the unpaid leave savings on an entirely voluntary basis, this has unfortunately not been fully achievable for 2017/18 and there remains a budget gap of circa £210k which needs to be met.

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 reduce the mandatory unpaid leave arrangement from 3 days to 1.5 days and to extend this for one further year, until 31st March 2018.
- 6.2 It is also recommended that this arrangement (including the ongoing voluntary unpaid leave arrangement) is monitored and reviewed towards the end of 2017, with a further report back to the Employment Committee at this point.