

report



meeting PERSONNEL COMMITTEE

date 29th JANUARY 2010

agenda item number 4

Report of the Service Director – Human Resources

Review of Employment Policies and Related Terms and Conditions

1. Purpose of the report

- 1.1 The purpose of the report is to update Personnel Committee on the negotiations with the recognised trades unions and seek approval on a proposed package of changes to employment policies and related terms and conditions.

2. Background

- 2.1 The County Council is facing a very challenging financial situation over the next three years due to the need to redistribute resources to meet growing service demands. A review of terms and conditions and employment policies was one of the areas considered in developing the budget proposals for 2010/11 and beyond. The County Council wanted to put forward a balanced package of measures that delivered tangible savings and retained an attractive level of benefits for staff, comparable with other local authorities.
- 2.2 At its meeting on 10 November 2009, Personnel Committee received an interim report from the Service Director-HR which gave an update on the progress of the negotiations with the trades unions on the proposed changes to employment policies and related terms and conditions of employment included in the County Council's budget proposals.

- 2.3 It was agreed that a further report would be presented to Personnel Committee in order to reach a final decision, based on the outcome of the consultation process on the overall package.

3. The negotiation process

- 3.1 Since opening the negotiations with the recognised trades unions at Informal Corporate Joint Forum (ICJF) on 22 October 2009, regular meetings have been held to continue the negotiations with a view to reaching agreement on the package of proposals.
- 3.2 This has included consideration of possible alternative options outside the original proposals for changes to both terms and conditions and compensation for premature retirement in redundancy and efficiency cases. The recognised trades unions were invited to put forward alternative proposals to achieve savings within the framework identified by the Council.
- 3.4 Only one such option was put forward by the trades unions in respect of terms and conditions which proposed changes to annual leave to harmonise leave entitlements for all staff regardless of grade, by reducing annual leave entitlement for all staff on Band A and above.
- 3.5 The trades union's proposal would achieve a saving of approximately £3.2m and was put forward on the basis that all other proposed changes would be removed from the package. The trades union's request was that this should also be on the basis of an agreement to no further changes to any terms and conditions for the next three years.
- 3.6 It was considered that this option alone did not achieve the balanced package of changes contained in the original proposals. Whilst the original level of savings proposed from annual leave would be attainable, the trades union's proposals would take longer to achieve, would be more difficult to deliver and entail significant further post reductions and would impact on a greater number of staff.
- 3.7 An alternative option was presented to the trades unions which retained the proposed removal of essential car user allowances and changes to mileage rates but offered a revised annual leave entitlement to achieve the principle of harmonisation of annual leave for all staff regardless of grade. This was rejected by the trades unions
- 3.8 The original proposals harmonised payments reduced the maximum level of redundancy payments to a maximum of 45 weeks based on age and length of service. During the negotiations it was accepted that the retention of additional discretionary payments and augmentation of pensions in cases of early retirement, redundancy and efficiency termination should be removed in the current financial climate.

- 3.9 In the light of the proposed removal of additional discretionary payments and simplification of the process, the County Council also proposed that any future requests below second tier level be dealt with by Corporate Director discretion using the delegated decision process. As the current appeal process relates to the level of discretionary payment awarded, the right of appeal would also be removed from the policy under these proposals.
- 3.10 The County Council's proposals also retained provision for consideration of a reduction to the level of redundancy payment (down to that provided under statutory provisions), where there is evidence of limited co-operation by the employee concerned with the redeployment job search process.
- 3.11 In addition, the proposals also retain the provision for early retirement in the interests of the efficiency of the service but for use in exceptional circumstances only, at Corporate Director discretion, and removes any provision for enhancement or augmentation in line with payments to other staff.
- 3.12 The recognised trades unions did not accept the proposed changes to the basis of the calculation of the compensation payment as proposed by the County Council.
- 3.13 The trades unions put forward an alternative model for the calculation of the basic early retirement / redundancy compensation payment. This included removal of discretionary payments but retained the calculation of the compensation payment at the maximum level possible without any additional discretionary payments (66 weeks). However the trades union's proposals would not deliver the same degree of potential saving, being around 80% of the cost of current scheme, compared with the County Council's proposals which cost around 60% of the current scheme.
- 3.14 At the ICJF meeting on 1 December the trades unions formally declared that they were not prepared to accept the wider package on offer and that they considered that the negotiations had broken down. The trades unions were seeking the engagement of the Regional Employers Organisation, and possibly ACAS, in order to resolve the situation.
- 3.15 Following further discussions and negotiation, the County Council did offer a revised package for consideration by the recognised trades unions. The main changes to the original proposals were:
- The removal of the cap on mileage rates in excess of 8,500 miles. Staff would therefore receive the HMRC rate (currently 40 pence per mile) up to 10,000 miles.

- The proposed changes to the salary protection scheme will be implemented but not apply to staff entering salary protection as part of phase one NJE implementation; including school based staff.
- The proposals in relation to the additional leave for social care and other staff in similar settings will only be applied to new starters. Existing staff working in these service areas will retain this additional leave even if they take up an alternative post in these service areas which attracts the additional leave.
- Increased compensation for early retirement and redundancy up to a maximum of 50 weeks pay dependent on a revised matrix in relation to age and length of service.
- A commitment from the County Council that the revised package would be a two year deal with no further changes to terms and conditions within this period. This would exclude developments in relation to ways of working, including flexible working, which are likely to emerge as part of the County Council's wider improvement programme.

3.16 The trades unions are currently seeking the views of members before formally responding to the Authority's revised offer. It is intended that the trades unions will inform Elected Members of their formal response to the County Council's offer at the meeting of Personnel Committee.

4. Proposals for consideration

4.1 Given that it has not been possible to date to reach agreement with the recognised trades unions on a package of changes, it is proposed that the following package of proposals should now be agreed in principle.

4.2 A summary of the proposed changes is as follows:

- Removal of Essential Car user Allowances.
- The establishment of a common rate for travelling expenses at the Her Majesty's Revenue and Customs (HMRC) recommended rate of 40p per mile up to 10,000 miles.
- The cessation of any subsistence payments, other than in exceptional circumstances such as a visit requiring an overnight stay.
- A reduction down to two years in the period over which salary protection arrangements would apply. However this would not apply to any staff entering salary protection as a part of phase one NJE implementation where the current arrangements would apply.
- A reduction to two years for the period which additional travel disturbance costs would be paid for staff being required to move base, combined with the removal of any additional travel time allocation.

- Non-application of the additional annual leave entitlement of five or six days currently allocated to some social care and other staff groups for new starters in these areas.
- Removal of the additional leave entitlement currently awarded to staff after 10 years service.
- A revised policy on compensation for early retirement and redundancy which removes the additional discretionary payments and augmentation; caps the number of weeks redundancy pay at 50 weeks pay and harmonises payments regardless of age or whether the individual is a member of the pension scheme.

4.3 **Appendix A** sets out the current position along with the County Council's proposed changes and details of the staff groups affected by the proposals.

5. Next steps

5.1 The County Council remains committed to trying to reach agreement with the recognised trades unions on an overall package. However, it is important that a decision is taken in the near future in order to begin taking action on the implementation of the proposals in sufficient time to generate the savings required. Therefore it is recommended that Personnel Committee agree the recommendations in principle. A revised report would be brought to Personnel Committee at a later date if an agreement was subsequently reached which would require variation of the recommendations outlined below.

5.2 Removal of essential car user allowance would be achieved through issuing six months formal notice of cessation.

5.3 Changes to the approved mileage rate, and the Council's employment policies are to be implemented without formally terminating existing contractual arrangements.

5.4 Changes to annual leave entitlements will constitute a change to employee contracts and, in the absence of a collective agreement with the recognised trades unions, this would require formal termination of existing contractual arrangements and re-engagement on revised terms for all staff covered by these provisions.

6. Financial Implications

6.1 The proposed changes to annual leave and the removal of essential car user allowances combined with the application of a standard mileage rate of 40p per mile combined with the removal of subsistence allowances will result in an estimated saving of £2.9m in a full year. However, in 2010/11 only part year savings are likely to be realised given the extended negotiation period and length of notice required to be issued to employees before the proposals can be implemented.

- 6.2 The remaining proposed changes will result in on-going further annual savings determined by the number of cases of salary protection and disturbance. It is estimated that the average cost of salary protection per case is currently £2,600.
- 6.3 The proposed changes to the Council's policy on compensation for premature retirement has the potential to save on average approximately 30% of the costs of redundancies arising from the budget proposals, year on year. This will vary depending on which individuals are ultimately selected for redundancy at the end of any statutory consultation period.

7. Statutory and policy implications

- 7.1 This report has been compiled after consideration of implications in respect of finance, equal opportunities, personnel, crime and disorder and those using the service. Where such implications are material they have been described in the text of the report.

7.2 Personnel Implications – Comments of the Service Director HR (NC 20.1.10)

In the absence of a collective agreement some of the proposed changes will require a formal contractual change requiring termination of existing contracts and re-issuing contracts on new contractual terms. Other changes will require formal notification of changes as set out in paragraph 5 above.

7.3 Financial Implications - Comments of the Service Director – Finance (AS 21.1.10)

The anticipated savings of approximately £2.9 million per annum arising from the proposed changes to essential user allowances, mileage rates, subsistence and leave entitlements were built into the initial budget proposals which were approved as the basis of consultation at Cabinet on 18 November 2009.

More recent papers to Cabinet have reduced the expected savings for 2010/11 to £1.5 million to allow for revised timescales for negotiation and implementation.

7.4 Legal Services Comments (GR 21.1.10)

Pursuant to section 6.2 of the County Council's Constitution the Personnel Committee has the delegated authority to exercise on behalf of the Council all powers and duties of the Council concerning pay, terms and conditions of service including responsibility for the application of pension provisions in respect of Council employees and the payment of gratuities pursuant to section 6.3 of the Constitution.

The proposals contained within this report are within the scheme of delegation to this committee.

Where proposed changes are not agreed, the County Council has a narrow range of options for implementing change. Implementing change without agreement or failing to follow processes necessary to effect change carries a degree of risk to the County Council in connection with individual employment rights. Should Personnel Committee require specific legal advice in relation to this matter, it can be provided separately. Any such advice will be legally privileged.

8. RECOMMENDATIONS

8.1 It is therefore recommended that the Personnel Committee agree the changes to employment policies and related terms and conditions as set out below:

- (i) Removal of all Essential Car User allowances and issue of six months notice to existing users.
- (ii) Removal of the additional leave provision for social care and other staff groups for all new starters within the relevant service areas.

It is intended that the following provisions apply from 1 April 2010:

- (iii) Harmonisation of all mileage rates to a single rate linked to the HMRC recommended rate up to 10,000 miles (currently 40 pence per mile).
- (iv) Removal of the provision for the reimbursement of subsistence payments, other than in exceptional circumstances.
- (v) Revision of the policy for salary protection to cover a maximum period of two years protection to be applied in all new cases except those arising from phase one NJE implementation.
- (vi) Revision to the additional travel expenses provision to include a maximum period of two years for reimbursement on the current criteria for excess mileage and remove the current provision for additional travel time.
- (vii) To commence in the leave year 2010-11, removal of the additional leave entitlement for staff completing 10 years service.

The following provisions to be applied in relation to early retirement and redundancy cases after 1st February 2010:

- (viii) A revised policy on compensation for early retirement and redundancy which removes the additional discretionary payments and augmentation/added years; caps the number of weeks redundancy pay at 50 weeks pay and caps the level of reckonable local government service and harmonises redundancy payments regardless of age or whether the individual is a member of the pension scheme.
- (ix) The revised policy to retain provision for consideration of a reduction to the level of redundancy payment (down to that required under statutory provisions), where there is evidence of limited co-operation by the employee concerned with the redeployment job search process.
- (x) Cases below second tier to be actioned direct through Corporate Director discretion using the delegated decision process.
- (xi) Removal of the right of appeal, as the current appeal process relates to the level of discretionary payment awarded which is removed from policy under these proposals
- (xii) Retain the County Council's policy on early retirement in the interests of the service but for use in exceptional circumstances only, at Corporate Director discretion and remove any provision for enhancement or augmentation.

**MARJORIE TOWARD
SERVICE DIRECTOR - HR**

Background Papers Available for Inspection.

None.

Electoral Divisions affected.

All