

Meeting: General Purposes Committee
Date: 27 May 2011
Subject: Determination of amendments to employee terms and conditions
Report of: Director of Customer and Shared Services
Summary: The report recommends that General Purposes Committee determine changes to terms and conditions of employment of certain groups of employees in order to achieve savings of £2m during 2011/12 and 2012/13

Contact Officer: Deb Clarke, Assistant Director, People (interim)
Public/Exempt: Public
Wards Affected: All
Function of: General Purposes Committee, (and council in so far as Council determined the overall budget)

CORPORATE IMPLICATIONS

Council Priorities:

The purpose of these changes is to achieve budget savings in order to allow the council to achieve its overall priorities.

Financial:

The proposals in this report are aimed at achieving savings of £2m over the financial years 2011/12 and 12/13 as set out in the Budget approved by Council on 24th February 2011.

Legal:

At key stages officers have taken legal advice from leading Counsel and external employment lawyers. The implementation of these proposals has varied and not always aligned legal implications including TUPE, Equal Pay, Statutory Confirmation Requirement and law on variation of contract. Legal advice has therefore been necessary to ensure the council is protected as far as is practicable from successful litigation.

Risk Management:

At key stages in the process risks have been identified and updated, together with an assessment of likelihood and impact. Mitigating actions have been put into place to reduce risk where possible. A formal risk assessment for this process has been developed and it is reviewed on a regular basis. A copy of the risk assessment is attached at Exempt Appendix B.

Staffing (including Trades Unions):

This report is entirely about changes affecting employees of the organisation, which have been subject to extensive consultation both with Trades Unions and Professional Associations and with affected employees and managers. These consultations are described later in the report.

Equalities/Human Rights:

In developing an approach towards achieving savings through changes to terms and conditions, the Council has undertaken detailed data analysis and consultation in order to fully understand the potential impacts on different groups of staff. Proposals have been modified over the course of the consultation period in order to minimise the impact on vulnerable groups. No adverse impacts from an equality perspective have been identified.

Community Safety:

None identified

Sustainability:

None identified

RECOMMENDATION(S):

1. **That the General Purposes Committee note that following extensive consultation with Trades Unions and Professional Associations and employees of the council, a package of measures to achieve £2m in savings has been arrived at which balances the need to deliver cashable savings with the aim of protecting the lowest paid employees of the council and reflecting as far as possible a fair approach to the reimbursement of travel expenses.**
2. **That the General Purposes Committee determine the following changes to employee terms and conditions for all employees of Central Bedfordshire Council (apart from those on Teacher contracts, those based in schools and casual employees (see recommendation 3 below)), with effect from 1st October 2011:**
 - (a) **A 2% reduction of gross pay for staff above a full time equivalent salary of £21, 519**
 - (b) **A change in the mileage rate at which 'Appendix E' payments are made to Her Majesty's Revenue and Customs' rate (the HMRC rate), currently 45p a mile (these are payments of excess mileage where an employee is required to move place of work)**
 - (c) **Reduce the period for which pay protection is paid where an employee is redeployed to a lower graded post to 1 year**

- (d) Stop providing lease cars to employees (contracts currently in existence to be allowed to run to the end)**
 - (e) Terminate the current Essential and Casual Car User allowances and mileage rates and replace them with a standard mileage rate at the HMRC rate (currently 45p a mile) and a new lump sum distributed on a sliding scale dependent on mileage**
 - (f) Stop providing Life Assurance to certain employees**
 - (g) Introduce a contract clause which allows for variation of terms and conditions in certain circumstances**
- 3. That the General Purposes Committee agree that casual employees have their hourly rate of pay reduced by 2%;**
- 4. That the General Purposes Committee note that officers have delegated authority to apply the mechanisms needed to achieve the proposals which are; securing individual consent from employees, or dismissal and re-engagement;**
- 5. That the General Purposes Committee note that these proposals and the need for them will be kept under continual review up until implementation on 1st October 2011, so that if alternative proposals for achieving the savings appear, or if it becomes clear that the council no longer needs to achieve these savings, a further report will come to General Purposes Committee.**

1. Background

In keeping with local government as a whole, Central Bedfordshire Council is facing unprecedented financial constraints. Following the Comprehensive Spending Review (CSR), the Council's approved budget for 2011/12 is predicated on savings of almost £20m.

Almost all areas of Central Bedfordshire Council's organisation are affected by the budget savings and staffing costs have had to be considered as part of the overall programme.

Initially, it was proposed to save £1 million from the total staff budget of £90 million, though adjustments to terms and conditions to help mitigate the need for further job losses.

Following the CSR, it was clear that the initial savings proposals announced in autumn last year were not enough so the Council had to look again at reducing costs, including staffing.

A further £1 million of staff costs savings through adjustments to terms and conditions was therefore agreed, alongside the previously agreed £1m, making £2m in total from the base budget.

At around the same time just over 280 posts were identified for deletion as part of the overall package of savings to be achieved over 2010/11 and 2011/12.

On 24th February 2011, therefore, the Council agreed a budget which included savings of £2m in total, £1m in 2011/12 and £1m in 2012/13 to be found from savings from employee terms and conditions. This report sets out the details as to how these savings will be achieved.

2. **The consultation process**

The consultation process has taken two parallel and aligned tracks – firstly with employees and managers and secondly with trades unions and professional associations.

The consultation with employees and managers has been delivered mostly through the Every Penny Counts campaign, with regular updates and opportunities for questions and feedback. At each stage, employees have been able to raise issues and have them answered directly by colleagues in Human Resources or where the issue raised is generic they have been anonymised and Frequently Asked Questions have been published.

At the start of the consultation process, the Council identified certain areas where material savings could be made in a fair and administratively simple way. These were:

- Removal of essential car user allowances and replacement of all mileage rates with a flat rate payment of 40p per mile
- Stopping all Council paid mobile phones and PDAs
- For new cases of pay protection, reducing the period of protection from 3 years to 1 year
- Freezing pay or reducing pay by a percentage
- Charging staff for car parking at various sites at £20 per month.

These were published and all staff were invited to send in ideas and comments through the “Every Penny Counts” campaign. We also invited the trade unions to bring forward ideas.

We had a high level of response from staff. We considered each of the ideas/comments received and fed our responses back through FAQs featured in the Chief Executive’s briefings and at meetings with the trade unions.

Following the responses and having taken into account the views expressed by the trade unions at the various consultation meetings with them, the proposals have been adjusted to achieve a balance between fairness to current and future staff with the very urgent need to achieve the £2 million savings from the base budget over two years. These proposals were published to the trade unions on 14 February 2011 and are covered later in this report. Some of the proposals involve changing contractual terms and conditions, for example a pay reduction of 2% subject to a floor of annual FTE salary of £21,519. Others relate to non-contractual items such as reducing the number of mobile phones supplied.

Additionally a survey of all affected employees was carried out in April 2011 – this had a very good (55%) return rate and shows very high levels of employees understanding the national and local context of the need for savings and what is being proposed in Central Bedfordshire. Broadly speaking, the majority of employees don't agree with the pay reduction but on most of the other areas that are being proposed, there is a majority of employees in agreement.

Finally, briefings for managers on the changes and their role in implementing them have been held.

A process of individual consultation with employees is about to start – each employee will receive an individual letter which explains what the changes mean for them, and offered a one to one meeting with their manager to understand the proposals in more detail and give their views. Employees will also be asked in this letter to agree to the changes.

For the Trades Unions and Professional Associations (Professional Associations generally represent professions associated with Education, and are recognised for collective bargaining purposes by the council), the consultation on proposals to change terms and conditions began on 16th November 2010. There was a series (8 in total) of meetings with the trades unions and professional associations over November and December 2010 and January and February 2011.

In addition, statutory notices were issued to comply with legal obligations where it is contemplated that there may be numbers of dismissals in relation to effecting a change in terms and conditions.

The consultation meetings were constructive and a genuine dialogue was established. However, once the final proposals were shared with the unions on 14th February 2011, it rapidly became clear that it would not be possible to agree the changes, particularly those relating to pay reductions. In addition, we were joined by the unions' Regional Officers at the meetings towards the end of consultation who took a more robust position on the changes we were seeking to agree.

The Trade Unions' main objections to the proposals are two-fold. First, that the Council should implement the costs savings by way of further voluntary redundancies rather than by changes affecting a large number of staff. Secondly, that the process should include schools-based staff. Both these objections were considered fully. However, they were not accepted as further redundancies cannot be made without affecting essential services and legal advice has confirmed that there is a sound justification for excluding schools – based staff – as they are wholly funded from the Direct Schools Grant any savings achieved would not impact on the General Fund. The Trade Unions' main suggestion at the Joint Secretaries' meeting about how the proposals could be changed was to remove the Essential Car Users Allowance for everyone. However, officers considered that this would impact disproportionately on the lowest paid workers, which was not consistent with efforts to spread the effects fairly and could potentially be challenged on equality grounds.

Towards the end of the consultations, the Trades Unions asked that the Joint Secretaries be brought into Central Bedfordshire to see if a way of reaching agreement could be found and management agreed to this process, although there were misgivings about the length of time it might take, given that every month that went by after the start of the financial year in April 2011 without generating savings from terms and conditions simply meant that the savings would have to be found through further adjustments to terms and conditions or other cuts.

However, the Joint Secretaries attended Central Bedfordshire Council for a whole day session on 18th April 2011 and determined that there was a Failure to Agree. A letter confirming this is appended at 'A'.

3. The changes to terms and conditions that are to be determined

After 6 months of detailed consultation and dialogue with Trades Unions, Professional Associations and employees and managers, and in the context of legal advice and a draft and then final Equality Impact Assessment, final proposals have been drawn up to achieve the necessary £2m savings in the base budget. We have worked to ensure that these proposals can be implemented with cashable savings and that some protection is given to our lowest paid employees.

Staff on teacher contracts who are centrally employed are excluded from any reduction to their pay as these are set nationally by statute and cannot be locally varied. They are however affected by the other changes. Also schools based staff are not affected by these proposals as they are directly funded by DSG in full and therefore there is no 'economic' imperative to make the savings. Finally casual staff will also be affected as their hourly rates are directly linked to the standard full time salaries, but because of the nature of casual work there is not an employment contract to vary.

The final proposals are as follows;

- a) Reduce pay by 2% applies to staff with a gross FTE pay of greater than £21,519.

- b) Change the rate at which 'Appendix E' payments are made. Appendix E payments are intended to compensate staff that the Council requires to move to a different place of work and travel further as a result; the payment is the difference between the journey to their old place of work and their new place of work. We are saying that these payments should be on the basis of the HMRC rate which is currently 45p a mile.
- c) Reduce pay protection from three years to one year. Pay protection is paid when an officer is redeployed onto a lower graded post. It is the difference between their old pay and the pay of the post they have been moved into. Under the proposal this would be paid for only one year not three as currently.
- d) Stop providing lease cars. Some of the legacy authorities provided lease cars to officers. The proposal is that the council would stop providing any lease cars at all. Implementation of this proposal has to be staggered because some contracts are in place and it would be better to let them run their course, but no new contracts will be entered into.
- e) Stop payments of Essential Car User Allowance lump sum and come out of the local government car user allowance schemes. This proposal would in effect terminate the current car allowance schemes which are part of local government terms and conditions, and would replace them with a smaller lump sum available on a sliding scale depending on work related mileage.
- f) Change the business mileage rate to the HMRC rate. All business users would go to the HMRC rate of 45p a mile whereas at the moment there are multiple rates in use.
- g) Stop paying Life Assurance for some ex district employees.

4. **Total savings**

The savings are predicated on implementation of all of the above from 1st October 2011.

The following shows how the £2m is made up but obviously may change at the margins depending on factors such as the numbers of staff in post, national pay negotiations, HMRC changes and so on.

Proposal	Total Savings over two years, based on start at 1.10.11
2% pay cut above £21,519 FTE	£1 million
Replacement of Essential Car User Allowance	£900k
Business Mileage	£100k
Appendix E payments	
Lease Cars	
Life Assurance	
Total	£2 million

5. **Implementation**

Following extensive consultation with the unions and professional associations, the timescale for implementation of the savings by October 1st 2011 through changes to Terms and Conditions is now very tight but achievable provided we have an intensive period of individual consultation during the remainder of May and the first half of June.

Following the decision of General Purposes Committee, all affected employees will be written to individually to set out how the changes affect them personally and seek their agreement to the changes. This will happen at the end of May.

Employees will have until the third week of June to agree or not to the changes. A range of arrangements for information and access to advice will be in place during this period, including one to one meetings on request, a HR help line, a HR help portal, and HR surgeries.

During this intensive period we will need to keep under constant review the ideas or approaches suggested by employees or their representatives to ensure we do not reject or ignore a workable alternative to the proposals we have made. We will also be continually reviewing the need for the savings through formal reports of the Section 151 officer.

If there are no alternatives and if the need for the savings still exists then employees who do not agree to the changes or who do not respond to the letter will receive a letter of dismissal and re-engagement during the last week of June.

The changes will take effect from 1st October 2011 (this is three months after notice is given i.e. by 1st July 2011).

At the time of writing this report it is not known whether the Trades Unions will ballot for industrial action in regard to the changes but it is anticipated that they will. A verbal update may be given at the Committee meeting.