

General Purposes Committee

AGENDA STATUS: PUBLIC

Report Title	Revised Terms and Conditions of Service of Council Employees
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Date of Meeting:	14 September 2010
Directorate:	Chief Executive and Management Board
Ward(s)	None Specifically

1. Purpose of Report

This report seeks approval for the proposals for new pay and conditions of service following Job Evaluation and negotiations, for employees of the Council covered by the National Joint Council for Local Government Services.

2. Recommendations

The Committee is recommended to:

- 2.1 Approve and adopt the proposals for new pay and conditions, for employees covered by the National Joint Council for Local Government Services, attached at Appendix 1
- 2.2 Delegate to the Chief Executive as the Council's Head of Paid Service the power to take any direct or incidental actions required to implement the revised terms and conditions and any other issues arising from this report, subject to the financial implications by Cabinet.
- 2.3 Approve and adopt the pay protection arrangements of one year to run from 1 January 2011 until 31 December 2011.
- 2.4 Approve and adopt the Pay Progression Policy attached at Appendix 2 and delegate to the Chief Executive as the Council's Head of Paid Service the power to amend the policy should the need arise.
- 2.5 Approve and adopt the Market Supplement Policy attached at Appendix 3 and delegate to the Chief Executive as the Council's Head of Paid Service the power to amend the policy should the need arise.

- 2.6 Approve and adopt the revised Essential car mileage allowances and Inland Revenue fixed rate mileage scheme for all employees of the Council, implementation planned for 1 April 2011, subject to completion of consultations with Trade Unions.

3. Issues and Choices

3.1 Report Background

3.1.1 The National Agreement for Local Government Services was signed in 1997 to address historical equal pay issues and to harmonise terms and conditions in Local Government between officers and manual workers. It brought together the terms and conditions of service of these two groups of employees into the new agreement known as the Single Status Agreement. The agreement required that all Local Authorities review terms and conditions of services with a view to ensuring that all employees received equal pay for work of equal value. This position was reinforced in the national pay agreement of April 2004, which incorporated a further Implementation Agreement setting a deadline of April 2007. It has been necessary to review all terms and conditions of service both to address historical equal pay issues and to harmonise terms and conditions in Local Government between officers and manual workers.

3.1.2 In Northampton these differences in pay and conditions may exist

- Within the manual worker groups where bonus is largely paid to men
- Within work group where different allowances rates are paid as a result of the former Compulsory Competitive Tendering regimes
- The interface between the skilled manual worker and former officer grades
- The difference in grading of traditional 'female' types of jobs and 'male' types of jobs

3.1.3 The National Agreement was reached on the principle that solutions should be reached where possible through a process of local bargaining rather than litigation on equal pay claims. Northampton Council has undertaken this review on a previous occasion but failed to reach a satisfactory solution. Some equal pay claims have already been met and others may be forthcoming on the implementation of the new arrangements.

3.1.4 The project began by undertaking a job evaluation exercise (December 2008 – November 2009). This process involved each employee or group of employees who undertook the same role to complete a detailed questionnaire. This questionnaire was then evaluated by a panel who were trained in the national job evaluation scheme. This panel consisted of HR, local management, trade unions and an independent chair from West Midlands Local Government Association. Work on a new grading structure was started in December 2009. Negotiations and pay modelling started with the Trade Unions at a local level on 17 December 2009 and concluded on 19 February 2010 having failed to reach agreement. During this period the negotiation group jointly pay modelled and considered a significant number of alternative pay lines. The group also reviewed all existing terms and conditions and proposed alternative conditions. The full proposals were then sent to the Regional Trade Unions with a request for them to confirm their formal position – and either ballot or register a failure to agree.

- 3.1.5 During the months from March until June discussions on the agreement have continued at a regional and national level with the trade unions. On 11 August the final documents were sent through to the regional trade unions officers, and all equal pay and negotiations issues raised by them have been responded to in writing. This concluded a further five months of negotiations at regional level, following the local failure to reach agreement.
- 3.1.6 Negotiations will continue in September with Trade Unions with a view to continuing to try and reach a collective agreement. Nevertheless because of the delays it is now necessary for the Council to consider moving this matter on.

3.2 Issues

- 3.2.1 The Council is required to meet its obligations under equal pay law and its contractual obligations in respect of National Agreements. Many authorities have taken considerable time to implement the Single Status Agreement because of the costs associated with equal pay. The Council has been able to resolve individual equal pay challenges through compromise agreements which are dependent on the implementation of a new pay and grading structure. Implementing a new contract of employment which is equality proofed is the only way of meeting the Councils obligations in full.
- 3.2.2 The Single Status Agreement allowed for substantial local negotiation around conditions of service such as allowances for unsocial hours working. This was intended to allow the employer to improve and update the general framework of pay and conditions and so improve productivity and quality of services, which might reduce the costs of introducing the agreement, or improve value for money. This aspect had been addressed as part of the pay review as it is also the case that many of the allowances paid are complex administratively, presented equal pay problems of themselves or would be absorbed by the job evaluation scheme which gave points for such items as chargehand payments.

3.3 Choices (Options)

- 3.3.1 The Council face a high level of risk through not implementing a pay review, which identifies equal pay issues. There is not an option to do nothing, and given the previous failed attempts and equal pay claims already made; implementation should happen as soon as it is feasible to do so.
- 3.3.2 Options were available to the Council with regard to the type of terms and conditions that should be implemented. In summary there are approximately 150 different types of allowances that are paid to staff, many of these allowances have built up over a number of years on an almost ad hoc basis, and are paid to different types of roles. These allowances do not provide for a modern and flexible workforce. In their place it is proposed in summary to provide the following allowances;

i) Shift Allowances:-

- Night rate (to include hours between 12 midnight and 5.00 am) –Time and third on all hours except Sundays when it is time and half

- Rotating shift allowances payable to shift worker who work shifts extending over 24 hours (no Sunday allowance payable) – 20% on all hours
 - Alternating shift – payable to employees whose shifts extend beyond 14 hours – 10% payable on all hours (no Sunday Allowance payable)
 - Shift workers must be rostered over the whole shift pattern to receive the allowance i.e. not just morning or evenings.
- ii) Sunday Allowance = x 0.5 (i.e. time and half) on all Sunday hours if worked as part of the normal working week
- iii) Standby = £30 per session; 1 week = 9 sessions i.e. two sessions each Saturday and Sunday for covering full 24 hours. Standby covers first hour of telephone response
- iv) Call out – 2 hours minimum first call out; travel time up to 30 mins; x 1.5 (i.e. time and half) Mon – Fri and x 2 Sunday –Spinal Column Point (SCP) 32 cut off;. SCP 33 – 60 = plain time

3.3.3 Other significant changes to the terms and conditions include;

- i) Working hours not attracting premium payments are defined as hours worked on Monday to Saturday, fixed or varied within a fourteen hour period set between the hours of 05.00 to 12 midnight. The start and finish times for the fourteen hour period may be different for different services. A core service time may also be established within the fourteen hour period or, subject to health and safety considerations, the working day may extend up to the fourteen hour limit.
- ii) Pay progression - Pay progression through each grade will be subject to the pay progression policy, as shown at Appendix 2. Annual service related increments will continue to apply to all employees for April 2011 and for employees on grades one to five in April 2012. Service related increments will cease for all employees on grades 6 to 11 following the payment of the April 2011 increment and for employees on grades one to five after the payment of the April 2012 increment. Following the ending of service related payments progression through the grade will be based on criteria, as set out in the pay progression policy.

The detailed proposed terms and conditions document is attached at Appendix 1.

- ### 3.3.4 One of the options available to the Council is to determine whether any protection of earnings should be offered to those employees who are adversely affected by the new conditions and, if so, for what period that protection should be in place. Offering protection to its employees may increase the risk of equal pay claims e.g. by affected staff claiming that the protected pay perpetuates inequality. However, it is reasonable for a good employer to mitigate the affects of change and allow a short period of time for employees to adjust to a lower earnings level. The consequences of not doing so may lead to industrial action, loss of morale and increased turnover amongst employees with and adverse effect on performance and service delivery. Therefore the costs of the proposals include an element for one years protection of earnings.

- 3.3.5 As noted in paragraph 3.1.6, negotiations will continue in September with Trade Unions with a view to reaching a collective agreement for the implementation of the new pay and grading structures. This will mean that should the proposals be approved by the National Trade Union Officials, a ballot of trade union members of the workforce will follow. If the proposals are acceptable then they can be implemented within two months of acceptance through the mechanism of a collective agreement.
- 3.3.6 It should be noted that the Council has been in negotiations with the Trade Unions since December 2009, and the Council has responded to all the specific points raised, however the Council and the Trade Unions are still some way off reaching agreement. Although it is still the authority's wish to reach a collective agreement, it is also important to understand the uncertainty that the continued negotiations have on staff and the organisation going forward in the current financial situation.
- 3.3.7 In order to achieve certainty in respect of a date of implementation of a new pay and grading structure it is therefore proposed that if the Council fails to reach a collective agreement in September then the following two step approach be implemented: -
- i) To approach the workforce directly and seek mutual agreement to the new contractual terms. This offer would be time limited to 1 month.
 - ii) Where agreement cannot be reached, to consider implementing the required changes unilaterally through the termination of current contracts and offers for reengagement on the new terms. A formal 90-day consultation process, compliant within Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (as amended) followed by a 3 months notice of dismissal for employees.
- 3.3.8 The trade unions and a number of their members would oppose the approach of termination and offers for re-engagement on the new contract. It may result in industrial action and/or legal action for unfair dismissal by affected staff. However, this approach would ensure implementation on a prescribed date; begin to remove the equal pay issues from the Council and modernise and simplify current conditions of service. In addition it would reduce the risk of legal challenge and wasteful use of public money in fighting and settling legal disputes.

4 Implications

4.1 Financial Implications

- 4.1.1 Cabinet are considering the financial implications of the proposals at the meeting on 15th September 2010. The financial implications can only be based on the establishment at a specific point in time, and the overall cost will change dependant upon new starters and leavers and future structure changes. Additionally successful job evaluation appeals will have an impact on cost.
- 4.1.2 Based on the current data is it estimated that the cost of the new pay structure including protection as follows:

	2010/11 £'000	2011/12 £'000	2012/13 £'000
Pay & Grading Structure excluding Protection	11,475	46,896	47,628
Pay Protection	347	1,161	0
TOTAL COST	11,822	48,057	47,628
Funded by:			
Approved Employee Budget as per 2009/12 medium term financial plan	11,630	47,170	47,985
Funding Required	192	887	(357)

4.1.3 Based on the current data the General Fund / HRA spit is:

HRA / General Fund Total Cost	2010/11 (3 mths) £'000	2011/12 £'000	2012/13 £'000
General Fund	219	1,069	317
HRA	(27)	(182)	(674)
TOTAL	192	887	(357)

4.1.4 It is estimated that overall protection will cost in the region of £1.508m split between £1.182m in the general fund and £326K in the HRA. The cost of protection will be met from General Fund and HRA Reserves.

HRA / General Fund Protection	2010/11 (3 mths) £'000	2011/12 (9 mths) £'000	2012/13 £'000
General Fund	273	909	0
HRA	74	252	0
TOTAL	347	1161	0

4.1.5 The ongoing costings of the new pay structure will be dealt with in the normal way as part of the Council's medium term financial plan and budget process. Based on the current data it is estimated that the cost of the new pay structure including excluding protection is as follows:

HRA / General Fund Spit excluding Protection	2010/11 (3 months) £'000	2011/12 £'000	2012/13 £'000
General Fund	(54)	160	317
HRA	(101)	(434)	(674)
TOTAL	(155)	(274)	(357)

- 4.1.6 There may be further savings from the essential car user review and the implementation of Inland Revenue car mileage rates in 2012, subject to completion of the review and consultation with the trade unions.
- 4.1.7 A small number of jobs may attract market supplements. This still has to be evaluated and will again be included in the medium term financial plan as part of the budget process.
- 4.1.8 An issue that could cause the actual costs of the proposals to rise is that of Job Evaluation Appeals. Although it is impossible to know how many successful appeals there will be, it is reasonable to assume that the overall impact will be an upward pressure on the costs. A provision of circa £100K will be made in the medium term financial plan to cover the potential impact of any successful job evaluation appeals.

4.2 Human Resources Implications

- 4.2.1 The new pay and grading structure brings all employees within the scope of the national agreement, into the same pay scheme so there will no longer be any division between the former 'blue and white collar' employees. All employees will have access to some incremental progression. This is being linked to the new training and development and performance management strategies.
- 4.2.2 The grading structure also allows for career progression for jobs with a professional training structure and introduces the concept of career pathways to enable unqualified employees to have access to training, which will enable them to enter a career or gain promotion. These will be more fully developed over the next few years. These concepts are important for the Council's success in recruiting and retaining a properly trained workforce for the future. As required by the National Agreement the national pay spine continues to be used. Account has been taken of national and local markets for some key jobs so that the Council is able to compete in the market place and retain the existing workforce. The proposal at Appendix 3 introduces a revised Market Pay Policy for the Council, which should withstand any equal pay claims.
- 4.2.3 The proposals reshape how we pay for unsocial hours by introducing shift allowances to replace the many that currently exist. Weekend working costs have also been reduced. As well as eliminating inequalities, these changes have the effect of reducing the amount of individual claims for allowances, which are currently processed weekly and monthly so there are significant administrative improvements. More importantly it allows for some variation or extension of services to customers to be locally negotiated within a given framework.
- 4.2.4 Other changes have consolidated "on call" and "call out" payments. Rules around pay and overtime have been regularised to eliminate different practices across the Council.
- 4.2.5 For employees a wide range of flexible working approaches have been extended to all employees. It is expected that these will also aid the Council in recruiting and retaining employees.
- 4.2.6 The proposals have raised earning levels for many employees. A number have gained through additions to basic pay and some through equal access to changed allowances. The number of employees gaining on single status is 38.9% (as at

September 10 payroll). 136 employees have gained over £2500.

- 4.2.7 The number of employees who are assimilated i.e. move into the new structure without a direct loss or gain is 33%.
- 4.2.8 27.9% employees will lose earnings as the protection period ends 31 December 2011. There are arrangements within the pension regulations which enable employees whose earnings have been changed by the employer to protect their pension and employees will be given contact details with the Pension Fund Administrators to be able to make their own arrangements within what options are available.
- 4.2.9 There are 111 employees who will be protected at levels above £2500 (pending any appeals).
- 4.2.10 At an earlier stage in the negotiations agreement was reached to implement monthly pay for all employees to take effect in March 2010. This arrangement significantly reduces administration costs.
- 4.2.11 The Management Board have proposed a review of the number of Essential Car Users who are receiving a lump sum payment for use of their car on Council business. They have recommended the inclusion of eligibility criteria of a minimum mileage of 1000 miles per month and/or a designated service requirement. It is also proposed to replace the current rates with the Inland Revenue fixed rate mileage scheme, which pays 40 pence per mile. This change may result in some employees losing or gaining the Essential Car Users Allowance. All car users will lose by the change to the Inland Revenue scheme. These losses will be additional to any loss experienced from the new grading structure.
- 4.2.12 Some of the employees covered by the Car allowance arrangements are outside of the scope of the new pay and grading structure and, therefore must be separately consulted. Trade Unions are being consulted through the Management and Trade Union Consultation Meetings rather than the Pay and Grading Steering Group. Implementation of the new mileage rates will be from 1 April 2011, and protection of essential car user allowances will be until 31 December 2011 (subject to consultation with the trade unions).

4.3 Legal Implications

- 4.3.1 The Council has legal obligations under the equal pay legislation, and it is clear that the Council's current pay arrangements do give rise to equal pay challenges. Approving the revised terms and conditions outlined in this report, will reduce significantly the risk of equal pay challenges against the Council.
- 4.3.2 Should the Collective bargaining route prove unachievable, the option of termination and offers for re-engagement on new terms could give rise to unfair dismissal claims (including constructive dismissal claims) by affected employees who have the requisite length of service. However, the reasons for seeking to implement new terms and conditions are well documented and are capable of being regarded as fair reasons for dismissal. However, the council will also need to show procedural fairness in the way it goes about implementing the changes. In order to do this appropriate consultations will be undertaken.

- 4.3.3 As outlined in the body of the report, pay protection does expose the authority to risks of equal pay claims because of the argument that the protection perpetuates historic pay differentials. However, the benefits of protection in industrial relations terms outweigh the risks.
- 4.3.4 There continues to be a risk relating to back pay. If an employee is not satisfied with the pay review that employee could take a case to tribunal. The risk of back pay claims exists whenever there are equal pay issues whether the revised pay and grading structure is in place or not. The risk of such claims, following implementation, may be higher without a local collective agreement. The unions cannot refuse to represent any employee who wishes to make a claim whether or not there is an agreement in place.

4.4 Equality

- 4.4.1 The completion of the pay review will mean that the Council will achieve one of its most important equalities targets. A full equality assessment has been undertaken. The table below shows the movement of the workforce by gender and grade. The table illustrates the position of men and women in relation to the average total earnings of the each grade based on current earnings, and those that will apply after the single status is implemented.

Table: Percentage difference from average total earnings of each grade by gender (before and after the Pay Review)

Grade	Overall Average Current	Overall Average Proposed	Overall Average Current - Male	Overall Average Current - Female	Overall Average Proposed - Male	Overall Average Proposed - Female	Male Current Diff %	Male Proposed Diff %	Female Current Diff %	Female Proposed Diff%
11	46,632	48,784	48,498	45,629	49,359	48,496	4.0%	1.2%	-2.2%	-0.6%
10	46,763	46,393	46,530	47,927	46,258	47,064	-0.5%	-0.3%	2.5%	1.4%
9	42,483	42,087	42,512	42,360	42,200	41,775	0.1%	0.3%	-0.3%	-0.7%
8	34,532	36,569	34,830	34,220	36,645	36,489	0.9%	0.2%	-0.9%	-0.2%
7	33,291	33,402	33,813	33,034	33,581	33,203	1.6%	0.5%	-0.8%	-0.6%
6	28,506	28,600	28,494	28,302	28,504	28,594	0.0%	-0.3%	-0.7%	0.0%
5	24,250	24,653	25,176	23,653	24,883	24,531	3.8%	0.9%	-2.5%	-0.5%
4	20,433	21,058	20,357	20,758	21,001	21,184	-0.4%	-0.3%	1.6%	0.6%
3	19,059	18,816	19,178	18,950	18,989	18,609	0.6%	0.9%	-0.6%	-1.1%
2	15,374	15,976	15,110	15,303	15,920	15,900	-1.7%	-0.4%	-0.5%	-0.5%
1	14,314	13,488	13,407	15,134	13,287	13,668	-6.3%	-1.5%	5.7%	1.3%

4.5 Other Implications

- 4.5.1 The Council face a high level of risk through not implementing a pay review, which identifies equal pay issues. There is not an option to do nothing and, given the previous failed attempts and equal pay claims already made, implementation should happen as soon as it is feasible to do so.
- 4.5.2 If the collective agreement approach fails, apart from the legal considerations there may be issues to address if industrial action results from a failure to agree. The Chief

Executive has required all Directors to draw up contingency plans in the event of strike action based on established business continuity plans.

5. Background Papers

Back ground Papers are: -

- National Agreement for Local Government Services (Human Resources Service)
- Various internal departmental papers.

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