



Havering

L O N D O N B O R O U G H

GOVERNANCE COMMITTEE AGENDA

7.30 pm	Wednesday 11 January 2017	Town Hall, Main Road, Romford
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Members 13: Quorum 5

COUNCILLORS:

Conservative Group (5)

Meg Davis (Chairman)
Melvin Wallace (Vice-Chair)
Roger Ramsey
Damian White
Osman Dervish

Residents' Group (3)

Ray Morgon
Barbara Matthews
Barry Mugglestone

East Havering Residents' Group (2)

Clarence Barrett
Darren Wise

UKIP Group 1

Lawrence Webb

Independent Residents' Group (1)

David Durant

Labour Group (1)

Keith Darvill

For information about the meeting please contact:

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e-mail: andrew.beesley@onesource.co.uk

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

2 APOLOGIES FOR ABSENCE & SUBSTITUTE MEMBERS

(If any) – receive.

3 DISCLOSURE OF INTERESTS

Members are invited to disclose any interest in any of the items on the agenda at this point of the meeting.

Members may still disclose any interest in any item at any time prior to the consideration of the matter.

4 MINUTES (Pages 1 - 4)

To approve as a correct record the minutes of the Committee held on 31 August 2016 (attached) and to authorise the Chairman to sign them.

5 MONITORING OFFICER NO 11 AMENDMENTS TO THE CONSTITUTION (Pages 5 - 8)

Report attached.

6 EXCLUSION OF PRIOR APPROVALS FROM COUNCILLOR CALL-IN PROCESS (Pages 9 - 12)

Report attached.

7 APPOINTMENTS TO OTHER ORGANISATIONS 2016/17 (Pages 13 - 16)

Report attached.

8 TERMS AND CONDITIONS REVIEW - PROGRESS REPORT (Pages 17 - 36)

Report attached.

9 PROPOSED TERMINATION OF THE SALARY PLUSAGE SCHEME (Pages 37 - 48)

Report attached.

Andrew Beesley
Head of Democratic Services

**MINUTES OF A MEETING OF THE
GOVERNANCE COMMITTEE
Town Hall, Main Road, Romford
31 August 2016 (7.30 - 8.35 pm)**

Present:

COUNCILLORS

Conservative Group Meg Davis (Chairman), Melvin Wallace (Vice-Chair),
Roger Ramsey, Damian White and Osman Dervish

Residents' Group Ray Morgon, Barbara Matthews and
Barry Mugglestone

**East Havering
Residents' Group** Clarence Barrett and +Ron Ower
UKIP Group Lawrence Webb

**Independent Residents
Group** +Michael Deon Burton

Labour Group Keith Darvill

Apologies were received for the absence of Councillors Darren Wise and David Durant.

+Substitute Members: Ron Ower and Michael Deon Burton (for Darren Wise and David Durant respectively).

The Chairman reminded Members of the action to be taken in an emergency.

Decisions were taken without division unless otherwise stated.

11 DISCLOSURE OF INTERESTS

All Members present disclosed an interest in respect of item 6 on the agenda: Councillor Car Parking.

12 MINUTES

The minutes of the meeting held on 29 June 2016 were agreed as a true record and signed by the Chairman

13 **EXCLUSION OF PRIOR APPROVALS FROM COUNCILLOR CALL-IN PROCESS**

At its meeting on 31 August 2016 the Governance Committee considered a report which sought to ratify the way in which prior approval submissions for were considered.

Unlike planning applications, prior approval submissions had strict timescales for determination and receipt of decision which, if not adhered to, could result in their default approval irrespective of the Council's intended decisions. Currently, officers declined Councillor call-ins due to the practical difficulties of reporting these applications to the Regulatory Services Committee within the prescribed timescales for determination and the cycle of committee meetings.

The matter had initially been presented to the Governance Committee at its meeting on 26 May, but had been deferred for further information. The report considered by the Committee on 31 August contained that information (attached along with the original report) and showed that the majority of London boroughs delegated authority without call-in provision.

With Council's agreement, it was proposed that prior approval applications could not be called-in to the Regulatory Services committee unless an Extension of Time Agreement had been sought and agreed by the applicant. Prior approval applications however, would henceforth be included in the weekly publicity list so that Ward members could better understand the nature and extent of prior approval applications. After a period of three months the matter would be reviewed and reported to Governance Committee to assess whether the introduction of a call-in arrangement would be justified. Should further changes be considered appropriate at that point, the matter would be referred to Council for final approval

The Committee **recommended to Council** that it:

1. **Ratified** the proposals set out within the report that prior approval submissions cannot be called-in for determination by the Regulatory Services Committee unless an Extension of Time Agreement has been sought and agreed by the applicant.
2. **Noted** that prior approval applications would now be included on the weekly publicity list of applications and that after a three month period to enable assessment of whether a call-in arrangement was justified, a report would be provided to the Governance Committee and if there were any changes to the proposals the matter would return to Council before being applied.

14 **COUNCILLOR CAR PARKING - REFERRAL FOLLOWING FULL COUNCIL MOTION**

At its meeting on 13 July, councillors considered a motion on behalf of the Independent Residents' Group to make minor amendments to the existing arrangements for Councillor car parking at Havering Town Hall. Council resolved that: *"This Council, in recognising that when the charges for staff car parking were introduced they also applied to councillors who did not wish to impose on staff charges which they were unwilling to accept themselves, wishes this principle to continue and requests Governance Committee to review the implementation of the current scheme in order to ascertain whether any practical adjustments are appropriate"*

Members were accordingly now invited to consider how best to implement Council's expressed wishes. All Members present disclosed an interest in this matter at the outset.

The issue appeared to be two-fold: Access to the car park at the Town Hall and the definition of what constituted "Council business". This item received wide input from Members and at the end of the discussion the Committee had agreed with the proposal that Members' passes to be "switched on" to permit access to the Town Hall car park instead of having to contact reception each time. They accepted that the onus was very much on each Member to buy a parking ticket if they had not elected to pay for parking in advance.

Members did accept that they should continue to sign-in for formal meetings and it was considered reasonable that the swipe card audit details and meeting attendances should be sufficient to effect random checks.

The Chief Executive was asked if it would be possible for Members to purchase "one day a week" passes and he said that this would be considered and Members would be apprised of its viability in due course. In the mean-time, instructions would be issued to arrange a start date for Members' badges to be activated for the Town Hall car park barrier.

The Committee:

- 1 **Noted** the report
- 2 **Agreed** to having their passes activated so that they would allow access to the Town Hall car park without recourse to the Reception Staff.
- 3 **Accepted** responsibility for paying for parking tickets if they were not on Council business.
- 4 **Confirmed** their support of the principal that Members would pay for parking along with Staff.
- 5 **Requested** that they be provided with advice about the feasibility of purchasing limited access parking (such as one-day a week) for those Members who did not have a regular attendance requirement.

15 **MONITORING OFFICER NO 10 AMENDMENTS TO THE CONSTITUTION**

The Committee was invited to consider a report concerning amendments made by the Monitoring Officer to the Constitution.

Following consideration the Committee **noted** the report.

16 **TERMS AND CONDITIONS REVIEW - PROGRESS REPORT**

The report before the Committee followed-on from an initial report considered by Members at its meeting on 29 June. This update provided more details (contained within an exempt appendix) of the review's objectives and informed the Committee that the process was about to move into its consultative phase which would last for the required 45 days – but could be extended if necessary.

Members were advised that the intention was to adhere to the proposals outlined in the appendix and that it was anticipated that the outcomes and position of the review would be clearer around Christmas. This being the case, it was proposed that a further update be brought to the Committee in the early New Year.

Having discussed various aspects of the proposals, the Committee **noted** the report and anticipated further briefings after the consultation had taken place.

Chairman

GOVERNANCE COMMITTEE

11 January 2017

Subject Heading:

**MONITORING OFFICER NO 11
AMENDMENTS TO THE
CONSTITUTION**

Report Author and contact details:

Kathryn Robinson Deputy Director Legal
& Governance & Monitoring Officer
Kathryn.Robinson@onesource.co.uk
Tel: 01708 432242

Policy context:

Monitoring Officer Amendments to the
Constitution

Financial summary:

These changes are purely procedural and
have no specific financial implications

The subject matter of this report deals with the following Council Objectives

Havering will be clean and its environment will be cared for	[x]
People will be safe, in their homes and in the community	[x]
Residents will be proud to live in Havering	[x]

SUMMARY

Part 2 Article 11.02(c) of the Constitution authorises the Monitoring Officer to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure.

The constitution provides that this committee must be notified of any such amendment at the first reasonable opportunity.

RECOMMENDATIONS

That:

The detailed changes to be made to the Constitution appended to this report be noted.

REPORT DETAIL

1. The Monitoring Officer has the ability to make limited amendments to the Constitution as set out in the summary above.
2. The amendments pick up legislative changes, a change in title following a restructure and typographical errors.
3. The meeting of this committee is the first opportunity for the reporting of the most recent amendments made and the committee is requested accordingly to note the amendments made.

IMPLICATIONS AND RISKS

Financial implications and risks: None

Legal implications and risks:

The Constitution provides for the Monitoring Officer to make certain amendments to the constitution in given situations and these amendments are pursuant to and in accordance with those powers. There are no legal implications arising from this report.

Human Resources implications and risks: None

Equalities implications and risks: None

BACKGROUND PAPERS

None

SUBJECT: AMENDMENTS TO CONSTITUTION

Notification No. 11

Date 11 January 2017

Notification of amendments to the constitution

Amendments made by the Monitoring Officer

Part 2, Article 11.02(c) of the constitution provides that the Monitoring Officer has a limited authority to amend the constitution. The Monitoring Officer is authorised to amend the constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure. The Governance Committee must be notified of any such amendment at the first reasonable opportunity.

In accordance with this authority, the Monitoring Officer gives notice of the following amendments to the constitution.

Part and article/ section	Page ref	Substance of amendment / amended wording	Reason for amendment
Part 4, Rules of Procedure. Overview & Scrutiny Rule 11		Reports to Council & Cabinet Amend wording as follows: (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Sub-Committees will prepare a report and submit it to (the Overview and Scrutiny Board who will then submit it to) the proper officer for consideration by the Council or by the Cabinet as appropriate. (b) If an Overview and Scrutiny Sub-Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report. (c) As soon as possible after the Sub-Committee Overview and Scrutiny Board has prepared the report, the proper officer shall serve a copy of it upon the relevant Cabinet Member. (d) The Council or Cabinet must consider the report of the Overview and Scrutiny Sub-Committee Board within two months of it being submitted to the	Need to revise process to ensure Overview & Scrutiny decisions are brought to the Executive in a timely manner

Part and article/ section	Page ref	Substance of amendment / amended wording	Reason for amendment
		<p>proper officer.</p> <p>(e) Reports of Overview and Scrutiny Sub-Committees Board referred to the Cabinet shall be considered by the Cabinet within two months of the meeting of the Overview and Scrutiny Sub-Committee at which its report and recommendations are agreed.</p>	

Subject Heading:	Exclusion of Prior Approvals from Councillor Call-In Process
CMT Lead:	Steve Moore, Group Director, Neighbourhoods
Report Author and contact details:	Helen Oakerbee Planning Manager helen.oakerbee@havering.gov.uk 01708 432800
Policy context:	Council's Constitution
Financial summary:	None

The subject matter of this report deals with the following Council Objectives

Havering will be clean and its environment will be cared for	[]
People will be safe, in their homes and in the community	[X]
Residents will be proud to live in Havering	[X]

SUMMARY

Alongside the processing of planning applications, the Council is also responsible for the handling of prior approval submissions. Unlike planning applications, prior approval submissions have strict timescales for determination which, if not adhered to, can result in their default approval irrespective of the Council's intended decisions.

This matter was first reported to Governance Committee on 26 May 2016 and then again on 31 August 2016.

At the August meeting it was proposed, with Council's agreement, that:

- Prior approval applications cannot be called-in to Regulatory Services Committee unless an Extension of Time Agreement has been sought and agreed by the applicant;

- Prior approval applications should be included in the weekly publicity list so that ward members can better understand the nature and extent of prior approval applications;
- After a period of 3 months, the matter would be reviewed and reported to Governance Committee to assess whether introduction of a call-in arrangement would be justified. Should further changes be considered appropriate at that point, the matter would be referred to Council for final approval.

Council ratified the first point and noted the second and third points at its meeting on 14 September 2016.

As three months have now passed, this report is being presented to enable Governance Committee to assess whether the introduction of a call-in arrangement would be justified.

RECOMMENDATIONS

That:

1. The Committee confirms the approach set out within the report that prior approval submissions cannot be called-in for determination by the Regulatory Services Committee unless an Extension of Time Agreement has been sought and agreed by the applicant.

REPORT DETAIL

1. For certain types of development, rather than submitting an application for planning permission, an applicant is able to make a submission for prior approval. Unlike a planning application where all matters can be considered including the principle of the development, with a prior approval, only certain matters can be assessed depending upon the type of approval being sought.
2. This matter was first reported to Governance Committee on 26 May 2016 and then again on 31 August 2016.
3. At the August meeting it was proposed, with Council's agreement, that:

- Prior approval applications cannot be called-in to Regulatory Services Committee unless an Extension of Time Agreement has been sought and agreed by the applicant;
 - Prior approval applications should be included in the weekly publicity list so that ward members can better understand the nature and extent of prior approval applications;
 - After a period of 3 months, the matter would be reviewed and reported to Governance Committee to assess whether introduction of a call-in arrangement would be justified. Should further changes be considered appropriate at that point, the matter would be referred to Council for final approval.
4. Council ratified the first point and noted the second and third points at its meeting on 14 September 2016.
 5. Prior Approval applications have been included within the weekly publicity list and at the time of drafting this report (mid-December), very little contact has been received about them from Councillors.
 6. As three months have now passed, this report is being presented to enable Governance Committee to assess whether the introduction of a call-in arrangement would be justified now that Councillors better understand the nature and extent of prior approval applications being received.
 7. Given that the Officer determination of prior approval applications has continued with no material difference in Councillor contact following their inclusion on the weekly publicity list or increased levels of attempted call-in, this report recommends that the inability to call-in prior approval submissions for determination by the Regulatory Services Committee, unless an Extension of Time Agreement has been sought and agreed by the applicant, is permanently adopted. As previously reported, if the applicant does not receive the Council's written notice of decision within the prescribed timescales, then the Council's decision automatically defaults to an approval irrespective of what the Council's decision would have been. Adopting the measure described permanently will assist in minimising this risk.
 8. The previous reports to the 26 May and 31 August 2016 meetings are appended for information.

IMPLICATIONS AND RISKS

Financial implications and risks:

The described changes to delegated powers would have no material financial implications.

Legal implications and risks:

There are no material legal implications. The Planning Service would continue to seek and incorporate Legal Advice where necessary.

It is noted that the report being presented to the Governance Committee is the correct procedure as set out in Article 11 of the Council's Constitution

Human Resources implications and risks:

There are no material implications.

Equalities implications and risks:

There are no direct equalities implications arising from this report. Where relevant, the Planning Service would continue to seek and incorporate advice from the Council's Corporate Policy and Diversity team.

BACKGROUND PAPERS

None



GOVERNANCE COMMITTEE

11 January 2017

Subject Heading:

**APPOINTMENTS TO OTHER
ORGANISATIONS, 2016/17**

SLT Lead:

Kathryn Robinson
Monitoring Officer
01708 432242

Report Author and contact details:

Jacqui Barr
Senior Democratic Services Support
Officer
jacqui.barr@onesource.co.uk
01708 432439

Policy context:

The Council appoints Members and others to serve on a variety of other bodies

Financial summary:

There are no significant financial implications.

The subject matter of this report deals with the following Council Objectives

Havering will be clean and its environment will be cared for
People will be safe, in their homes and in the community
Residents will be proud to live in Havering



SUMMARY

The Council makes appointments to a large number of other organisations, some statutory, others voluntary.

Since the new executive governance arrangements came into force, responsibility for making some appointments has passed from this Committee to the Leader of the Council but the Constitution provides that in the case of non-executive appointments, it is for this Committee to make decisions

RECOMMENDATIONS

That the Committee:

1. In respect of the Romford Combined Charity, **re-appoint Councillor Joshua Chapman** as a nominative trustee.
2. In respect of Citizens Advice Havering, appoint up to **two nominative Trustees to the Board**.

REPORT DETAIL

1. THE ROMFORD COMBINED CHARITY:

- 1.1 The Romford Combined Charity is a small, local charity that makes grants for the relief of poverty. It has seven Trustees: one *ex officio*, the Vicar of St Edward's Church of England, Romford, who chairs the Trust; four nominative, appointed for four year terms by the Council; and two members who are co-opted for five year terms by the other five Trustees on the Combined Charity Committee.
- 1.2 The terms of office of one of the nominative Trustees, Councillor Joshua Chapman will expire on 3 November. Councillor Chapman is eligible for re-appointment, but if he is to be replaced, it should be noted that an appointee need not be a Member of the Council.

2. CITIZENS ADVICE HAVERING:

- 2.1 Each local Citizens Advice service is an independent charity that is run by a Trustee Board comprising of volunteers. Operational management is delegated to the Chief Officer, but it is the Board that decides on the strategy of the service and monitors its operation.
- 2.2 The Trustee Board is keen to have councillor representation in order to build an effective relationship with the Local Authority and to help promote the importance of a free information, advice and advocacy service for local residents. Ideally, representatives should have an interest in the voluntary sector.
- 2.3 The Council has received a request for up to two Member representatives to sit as co-opted Trustees on the Board. The terms of office will run for three years from the date of the meeting of the Trustee Board at which

they were appointed. The Articles of Association of the Havering Citizens Advice Bureaux (signed 2006) is available from Democratic Services.

IMPLICATIONS AND RISKS

Equalities and Social Inclusion Implications and Risks

There are no specific implications or risks. Appointments should be made with the Council's equalities policies in mind.

Legal, Finance and Environmental Implications and Risks

These appointments are administrative and have no direct legal, financial or environmental implications or risks. In some cases, membership of an organisation is dependent upon the Council paying a subscription: where relevant, the subscription will be met from within an appropriate budget provision.

Members who sit on outside bodies will need to consider whether (a) they are required to register their interests with the Council and, where appropriate, declare the interests at meetings and (b) seek advice when they are potentially involved in Council decisions that may affect the outside body. As there is no remuneration for the appointments, they are very unlikely to be discloseable pecuniary interests. Trustee status means that the trustee must always act in the best interests of the trust. The Monitoring Officer is available to provide advice as and when necessary.

BACKGROUND PAPERS

A number of files are held by Democratic Services which provide information on the organisations to which appointments are being made.

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GOVERNANCE COMMITTEE

11 JANUARY 2017

Subject Heading:

**Terms and Conditions Review –
Progress Report**

SLT Lead:

**Andrew Blake-Herbert
Chief Executive**

Report Author and contact details:

Julian Sivill, Strategic HR Partner
(Transformation). Ext 3763,
julian.sivill@onesource.co.uk

Policy context:

Update Committee Members on progress
of the review.

Financial summary:

The content of the report relates to
information and procedure and
has no specific financial implications

**The subject matter of this report deals with the following Council
Objectives**

Havering will be clean and its environment will be cared for
People will be safe, in their homes and in the community
Residents will be proud to live in Havering

[]
[]
[]

SUMMARY

The report anticipates that the Committee will be asked to make a decision on changes to staff terms and conditions of service in the spring and updates the Committee on the progress of the review.

RECOMMENDATIONS

That the Governance Committee:

1. Notes the report's contents
2. Records any comments for the guidance of officers.

REPORT DETAIL

1. The Council is undertaking a review of the terms and conditions (T&C's) of service of its staff. The purpose of the review is to identify and replace those existing T&C's that are inconsistent, outdated or do not assist the delivery of services. As well as creating a set of T&C's that are more fitted to the Council's business needs, it is also intended that the review should create annual savings of at least £500,000 on the Council's non-schools corporate pay bill (ie excluding HRA/DSG/Public Health funded budgets) as part of the Council's budget strategy.
2. A provisional set of proposals was provided to this Committee at the 31 August meeting for information. The Committee were advised that the proposals were provisional at that stage but were not expected to change significantly before the launch of employee consultation.
3. An initial equality analysis was carried out on the provisional proposals prior to the start of employee consultation by an independent equalities consultant selected in conjunction with the trade unions, albeit not required at this stage under statutory consultation. The main conclusions were:

- The proposals for changes to basic pay and pay & allowances do not appear to disproportionately affect women more than men.
- No age groups are disproportionately affected by the proposals when compared to other age groups or to the workforce as a whole.

It should be emphasised that the data set upon which the initial equality analysis was carried out has changed over time due to starters, leavers and restructures. Furthermore, since the Council's proposals are also likely to change as a result of the consultation process, the initial equality analysis is now out of date and potentially irrelevant. A second equality analysis will be carried out after consultation on an updated data set and reflecting any revisions to the original proposals, as required under formal consultation.

4. Formal consultation with staff on the Council's T&C proposals commenced on 19 September 2016 for a 45 day period ending on 2 November 2016 (and subsequently extended to 9th December to ensure full consultation took place). To launch the consultation, the Chief Executive wrote to over 4,300

employees across the corporate organisation and support staff in Community/Voluntary Controlled (C/VC) schools to explain the purpose of the review, set out the proposed changes in the “Proposals Booklet” and to provide details of how those changes would impact on each individual employee.

5. To support the launch of consultation, the Chief Executive led 2 large-scale briefing sessions for over 500 managers (including Head Teachers). The aim of the briefing sessions was to inform managers about the rationale of the review and the key proposals so that they could then cascade that information to their staff in turn. A video was recorded of the Chief Executive presenting the main points which was made available to all corporate staff on the intranet and used by Head Teachers to present to school staff. The information needed by staff to understand the review and the potential impact on them was available on the intranet.
6. A full set of the Council’s proposals are set out at Appendix 1. The key proposals were:
 - To replace the GLWC job evaluation scheme with the GLPC scheme (which is used by the vast majority of London councils and a number outside London)
 - To introduce a new grading structure, resulting in fewer and broader grades
 - To introduce Performance Based Progression
 - All existing allowances (including those set out in “Local Agreements”) to cease and be replaced with the new proposals set out in the Proposals Booklet and any revisions agreed before implementation
 - To differentiate between Teaching Assistant 1 and Teaching Assistant 2 roles (both of which have been evaluated at proposed new Grade 2), the Council is proposing to apply a new allowance of £465 per annum pro rata for the Teaching Assistant 2 role
 - To apply an allowance to ensure that hourly basic pay is equal to the current London Living Wage rate. The allowance would be subject to annual rolling approval by the Full Council as part of the annual approval process of the statutory Pay Policy Statement
7. A small number of changes were made to the provisional proposals previously provided to the Committee. In summary these were:
 - The Council’s Proposals Booklet, which was sent to all staff as formal notification of the proposals, included a proposal to terminate the Salary Plusage scheme except for staff already in receipt of payment under the scheme before 12 August 2016. After further consideration the Council decided to remove that proposal from the Terms & Conditions proposals. Salary Plussage would be dealt with separately and is the subject of a separate report on the agenda

- At 31 August we were waiting on the trade unions to make a proposal about the rate of redundancy payments - however, this did not materialise. The Council's proposal at the start of consultation was that the statutory maximum level of weekly pay (currently £479) would be applied to the calculation of all redundancy payments. This would reduce the maximum total redundancy payment from £42,265 to £14,370. (This has subsequently been revised during the consultation process to £30,000)
- 8. To support the consultation process, the T&C Consultation Forum (T&CCF - comprising the Chief Executive, Employer Side Secretary and Branch Secretaries of the Unison, GMB, Unite, NUT and NASUWT) have continued to meet on a regular basis to discuss relevant feedback and alternative proposals.
- 9. To support staff during the consultation process, over 50 "drop-in" sessions were held across the borough with approximately 450 people attending those sessions. Responses to approximately 1100 email queries from staff have been provided and the project review team have handled over 250 phone calls to the T&C helpline.

The majority of the queries raised related to the job evaluation appeal process and the proposed new TA2 allowance.

10. Staff had the opportunity to submit an appeal against the proposed job evaluation outcome. The initial appeal deadline was 14th October which was subsequently extended to 31st October. This in turn led to the extension of the full formal consultation period to 9th December. There has been a total of 323 job evaluation appeals submitted during the consultation process (266 corporate and 57 from school staff). These appeals are for job roles and may contain more than one person in a role. We aim to complete these appeals by mid January and will need to ensure that the results do not compromise the current grading structure proposals before we are able to progress.
11. Throughout consultation, staff and the trade unions submitted requests to the Council to consider alternative proposals. The main requests were:
 - To use the grading structure attached to the GLPC scheme instead of the Council's proposed structure
 - To increase pay protection to three years from the current proposal of 6 months full protection and three months half - (currently pay is protected for 12 months)
 - That the Essential Car User Allowance be kept as it has recently been agreed
 - Extend grade 2/3 to include an additional spinal point to increase pay at the top of those grades
 - That the redundancy cap remains at the current amount of £42,265

- That the fixed enhancement/overtime rate be increased to 1.5 from the proposed 1.25
 - That the annual TA2 allowance be increased to £804 (i.e. double the proposed amount) and that it be calculated over the number of term-time weeks actually worked rather than over 52 weeks - also that an annual TA3 allowance of £402 be introduced
 - That the proposal to introduce performance based progression is removed until schools have a PDR system in place and the Council has reviewed the corporate scheme and the trade unions have agreed both schemes
12. At the T&CCF meeting on 29 November the Council responded to the staff/trade union requests by tabling a number of revised proposals. The revised proposals are detailed in Appendix 1. The revised proposals were made subject to a collective agreement being signed by trade unions (which would require a ballot of their members as a pre-requisite). In order to allow staff and trade unions time to consider the revised proposals, the T&C consultation was extended by a further week to 9 December 2016. Further adjustments to the revised proposals were tabled at T&CCF meetings in December – these are also detailed in Appendix 1.
13. There were a total of 193 items of feedback e-mailed to the Terms and Conditions inbox from staff during the consultation period which can be broken down as follows:

Category	No of Feedbacks
Disagreed with Proposals Generally	37
Disagreed with Proposals on Allowances, Overtime & Time Off in Lieu (TOIL)	57
Disagreed with Pay Protection Proposal	26
Disagreed with Redundancy Pay Proposal	22
Had specific disagreement with Salary Proposals	5
Proposals considered to be detrimental to performance	11
Comments on T&C Process	21
Alternative Proposals submitted	14

14. The impact of the proposals has been kept under review throughout the consultation period. The precise impacts vary according to the detail of the proposals themselves, the population of employees and their particular circumstances at any given moment.

The tables in paragraphs 15 and 16 below show the estimated impact of the Council's proposals – these include the impact of the Council's revised

proposals but do not take account of the results of any job evaluation appeals.

15. **Impact of Proposals – Individual Employees**

In the tables below, employees considered:

- “Green” would see an increase in their pay
- “White” would see no change to their pay
- “Red” would see a decrease in their pay

Table 1 shows the impact of the Job Evaluation and Grading Structure proposals on Basic Pay (ie the impact of Allowance proposals are **not** included).

Corporately, 86.9% of employees will either see no change in their pay or will see an increase in their pay. The corresponding figure in C/VC schools is 71.9%

Table 1

Impact on Employee	Corporate	C/VC Schools
Green	24.0%	3.9%
White	62.9%	68.0%
Red	13.1%	28.1%
Red but by less than £100pa	0.8%	3.6%
Red by more than 10%	0.7%	1.0%

Table 2 shows the impact of the proposed changes to contractual allowances **in addition to** the impact of the Job Evaluation and Grading Structure proposals on Basic Pay. Contractual allowances are those that are included in the contract of employment (eg Shift Pay). The table does **not** include the impact of the proposed changes to non-contractual allowances (eg non-contractual Overtime).

Corporately, 74.6% of employees will either see no change in their pay or will see an increase in their pay. The corresponding figure in C/VC schools is 74.3%

Table 2

Impact on Employee	Corporate	C/VC Schools
Green	24.1%	12.5%
White	50.5%	61.8%
Red	25.4%	25.6%
Red but by less than £100pa	5.1%	4.4%
Red by more than 10%	2.3%	1.1%

16. **Impact of Proposals – Savings and Budgets**

Table 3 shows the estimated cost reductions that would arise from the implementation of all of the Council's proposals (including proposals to non-contractual allowances).

The estimated £546k cost reduction to the General Fund budget would meet the target to create annual savings of at least £500,000 on the Council's non-schools corporate pay bill (ie excluding HRA/DSG/Public Health funded budgets).

It should be noted that the estimated £61k cost reduction to C/VC schools budgets is subject to individual school decisions on issues where the school retains an element of discretion (eg the number of additional/overtime hours required). Therefore C/VC savings can not be guaranteed.

Table 3

Organisation/Budget	Cost Reduction
Corporate – General Fund Only	£546k
Corporate - All	£621k
Community/VC schools	£61k

Table 4 shows the estimated one-off costs of pay protection that would arise from the implementation of the Job Evaluation/Grading Structure proposals.

Currently pay protection is for 12 months full protection. The Council's original proposal was to offer 6 months full protection. The Council's revised proposal during consultation is to protect pay for 9 months with 6 months full and 3 months half protection. As a reminder, only basic pay is protected.

Where a C/VC school would find it difficult to meet these costs, the Council will consider meeting those costs corporately.

Table 4

Organisation	Pay Protection Costs
Corporate – General Fund Only	£296k
Corporate – All	£316k
Community/VC schools	£191k

Table 5 shows the estimated additional costs of all staff reaching the maximum spine point of their new proposed grade compared to all staff reaching the maximum spine point of their current grade. In practice, this situation is extremely unlikely to ever occur due to:

- The robust application of the proposed Performance Based Progression scheme
- Staff turnover ie staff are constantly leaving and being replaced by new starters (who should commence on the minimum spine point of the grade)

Table 5

Organisation	Potential Pay Progression Costs
Corporate – General Fund Only	£2,054k
Corporate - All	£2,118k
Community/VC schools	(£39k)

17. Impact of Proposals – Equalities

A second and final equality analysis will be carried out on the finalised proposals and will be included in the future report to this Committee to consider alongside the final recommendations for implementation.

18. Collective Agreement

Throughout the consultation period, the Council's aim has been to try to reach a collective agreement with all 5 recognised trade unions (on behalf of all employees). As the Council was not prepared to meet a trade union request that the number of spine points at Grade 2/3 be increased, the GMB have indicated that they will not be prepared to support a collective agreement (because of their perceived potential impact on women). The Council have emphasised that the final impact of the finalised proposals will not be known until the second equalities analyses has been undertaken and have asked the GMB (and indeed all trade unions) to therefore reserve their position on this issue until that point. However, the view of officers at this stage is that a collective agreement is less likely to be achieved.

19. Next Steps

Consultation has closed and now we are working towards implementation of the proposals. The next steps towards finalising the review are:

- Finalise the allowance proposals and complete job evaluation appeals (scheduled by mid-January)
- Based on the appeal outcomes, check that the grading structure is still valid/sustainable (late mid/late January)
- Carry out external pay modelling version 9 (PM9) (by late January)
- Use PM9 data to carry out the second equalities analysis (EA2) (by early February)
- Discussion of PM9/EA2 with CLT, Head Teachers and Governing Bodies to get feedback and buy-in where possible (late February)

- Discussion of PM9/EA2 with trade unions and confirmation from them as to whether they are prepared to ballot on a Collective Agreement (late February)
- On the assumption that a collective agreement is not likely to be achieved, submit a report to Governance Committee for an implementation decision (8th March)

Should the trade unions agree to ballot their members, then a report to Governance Committee will not be possible by 8th March as the trade unions will need time to organise and carry out the ballot. Officers believe that the potential for a positive outcome from a ballot is worth the slight delay in the timetable. In any case, we aim to bring a report as soon as possible which may require an additional meeting before the next scheduled meeting in May 2017.

20. **Implementation**

The implementation programme will depend on the decision by the trade unions. The possibilities are:

1. The trade unions do not agree to ballot their members on the proposals.
2. They agree to a ballot and the outcome is that members **do not** accept the proposals
3. They agree to a ballot and the outcome is that members **do** accept the proposals

At this stage, it is unlikely, that a collective agreement will be possible but it is not yet completely ruled out. Until the trade unions give us their formal decision, the process for implementation of the proposals is not clear. However, to ensure we are prepared, either way, we have considered the statutory processes that will be required and further details will be presented to Governance Committee.

IMPLICATIONS AND RISKS

Financial implications and risks: There are no financial implications or risks arising directly from this report.

Legal implications and risks: There are no legal implications or risks arising directly from this report.

Human Resources implications and risks: The report relates to a major review of employee terms and conditions but has, of itself, no direct bearing on human resources.

Equalities implications and risks:

The report has no direct equalities or social implications nor is an Equalities Assessment required. It should be noted that the review of terms and conditions referred to in the report will have equalities implications and will be subject to an independent equalities assessment before being presented to this Committee for a decision.

BACKGROUND PAPERS

None

T&C REVIEW

THE COUNCIL'S PROPOSALS – AS AT 21/12/16

GOVERNANCE COMMITTEE 11/01/17

NOTES:

These proposals are still provisional at this stage and may change before the Council decides on the final proposals.

Ref No.	Issue	Council's Proposals at 19/09/16	Revised Proposals at 21/12/16
1	Scope		
1.1		The T&C Review includes all employees in corporate directorates (ie the non-schools part of the organisation including oneSource services) except employees employed on School Teachers Pay & Conditions and includes all employees in Community & Voluntary Controlled schools (C/VC schools) except employees employed on School Teachers Pay & Conditions	No change
2	National Terms & Conditions		
2.1		Leave CEX role currently subject to JNC for Chief Executives unchanged	No change
2.2		Leave first and second tier roles currently subject to JNC for Chief Officers unchanged	No change
2.3		Leave all roles currently subject to NJC Local Government Services (as varied by the GLPC London Agreement) unchanged except a small number of specific roles as detailed	No change

		below	
2.4		Leave all roles currently subject to Soulbury Committee unchanged though these will be subject to a separate review in due course	No change
2.5		Leave all roles currently subject to JNC Youth & Community Workers unchanged though these will be subject to a separate review in due course	No change
3	Job Evaluation and Appeals		
3.1		Replace the Greater London Whitley Council (GLWC) Job Evaluation (JE) scheme with the Greater London Provincial Council (GLPC) JE scheme	No change
3.2		Replace the Hay JE scheme (used for senior management roles) with the Local Government Employers (LGE) JE scheme	No change
3.3		Apply the GLPC JE scheme to all roles subject to the NJC Local Government Services at third tier and below except the following: <ul style="list-style-type: none"> • Third tier roles graded under the LGE JE scheme • Election Canvassers • Door to Door Canvassers • Specific sessional teaching roles 	No change
3.4		Apply the LGE JE scheme to all roles subject to the JNC Chief Executives and JNC Chief Officers at first and second tier and to specified third tier roles.	No change
3.5		Employees may appeal against the proposed new grade of their substantive role. All appeals will be considered and determined by a joint Management/Trade Union JE Appeal Panel as follows: <ul style="list-style-type: none"> • JE Appeal Panel to comprise 2 management representatives and 2 trade union representatives (Employee Side Secretary to coordinate who will comprise the 2 Trade Union reps for each appeal) • 2 management representatives to be the Director of 	No change

		<p>HR&OD (or rep) and a service management representative (who will be the Head of Learning & Achievement (or rep) in relation to any appeal from a C/VC school employee)</p> <ul style="list-style-type: none"> • The “Chair” of the JE Appeal Panel to alternate between employer/employee reps • “Like” appeals to be joined together (to be determined by the JE Appeal Panel following proposal from the T&C Review Project Manager) – relevant post holders to submit a single consolidated appeal • Appeals to be “heard” on a document basis (rather than physical meetings) – meeting could be arranged if absolutely necessary • Chair to coordinate Panel views on a document basis (rather than physical meetings) – meeting could be arranged if absolutely necessary • Appeal Panel decision determined by majority vote (Note: appeal decisions could result in: a grade reduction; no change to grade; an increase in grade) – where the panel vote is evenly split (eg 2-2) the status quo will prevail ie the appeal will not be upheld • Appeal Panel decision final – no recourse to elected members or Greater London Provincial Council 	
3.6		The process to deal with JE Appeals after implementation of the T&C Review to be developed through the T&C Review consultation process	No change
4	Basic Pay, Grading, Assimilation and Pay Protection		
4.1		Reduce the current structure of 33 grades (APTC1 to HG1) to a new broader banded 18 grade structure (Grade 1 to Grade 18)	No change
4.2		Continue to apply the GLPC Outer London Pay Spine to determine basic pay for roles graded under the GLPC JE scheme and the lowest graded role graded under the LGE JE	No change

		scheme (ie Grade 1 to Grade 12) with the addition of 1 new local spine point (71)	
4.3		Continue to apply locally determined salary scales to determine basic pay for all other roles graded under the LGE JE scheme	No change
4.4		Each new grade to comprise 5 spine points	No change
4.5		<p>Assimilate employees to the new 18 grade structure as follows:</p> <ul style="list-style-type: none"> • Assimilation to be based on a comparison of current basic pay relevant to the employee's current substantive role (as determined by spine point) and proposed basic pay relevant to the employee's current substantive role (as determined by spine point) – no other payment/allowance relevant to the employee's substantive role or any payment/allowance relevant to any non-substantive role will be used to determine assimilation to the new 18 grade structure • Where an employee is currently on a higher spine point than the maximum spine point of the proposed grade, the employee will be designated a "Red circle" and will be assimilated at the maximum spine point of the proposed grade • Where an employee is currently on a spine point that falls within the spine point range of the proposed grade, the employee will be designated a "White circle" and will be assimilated at their current spine point • Where an employee is currently on a lower spine point than the minimum spine point of the proposed grade, the employee will be designated a "Green circle" and will be assimilated at the minimum spine point of the proposed grade 	No change
4.6		Apply pay protection to employees designated a Red circle for a period of 6 months as follows	The revised proposal is to protect pay for nine months, with six months full and three months half protection. As a reminder, only basic pay is protected.
Note			An unanticipated consequence of the new grading structure is that a small number of staff would lose a

			small element of their annual leave entitlement. The Council has made a commitment that annual leave entitlements would not be impacted so they will be protected for current staff but not new staff.
5	Performance Based Progression		
5.1		Apply a Performance Based Progression scheme (PBP) to determine progression from one spine point to the next within each new grade	No change
5.2		The Council will bring forward proposals to review its existing PDR scheme to ensure it is fit for the purpose of determining PBP in the corporate part of the organisation and to develop similar scheme for use in C/VC schools	No change
5.3		Implement the results of the PBP scheme for the first time with effect from 1 April 2018	No change
6	Allowances and Payments		
6.1		All existing allowances/payments and Local Agreements to cease and be replaced only by the allowances/payments specifically identified in the Council's T&C Review.	Payments to accredited social workers under the Approved Mental Health Practitioner and Best Interest Assessor local agreement will continue to be made. Gritting allowance local agreement to continue. Otherwise no change
6.2		The Council intends to reduce the total expenditure on allowances/payments paid in the corporate directorates through a combination of: <ul style="list-style-type: none"> Reducing the number of occurrences where the allowance/payment is paid Reducing the rate at which the allowance/payment is paid 	No change
6.3	Additional Hours	Leave the current rate of payment unchanged (at plain time) for	No change

		<p>all additional hours worked</p> <p>The Council aims to reduce the number of additional hours worked in corporate directorates by 25%.The decision as to whether the number of additional hours worked in C/VC schools to remain a matter entirely for each C/VC school to determine.</p>	
6.4	Enhancements (including contractual and public holiday enhancements)	<p>Apply a single enhancement rate of 0.25 for working outside “normal hours”, remove the £105 Outer London Weighting element currently applied to the hourly rate calculation and remove all associated Time Off In Lieu (TOIL) provisions :</p> <p>eg 1 - reduce the current enhanced rate for Saturday working (as part of the normal working week) from 0.5 to 0.25 and, where currently applicable, remove all associated TOIL provisions</p> <p>eg 2 - increase the current enhanced rate for Unsocial Hours working (as part of the normal working week) from 0.2 to 0.25 and, where currently applicable, remove all associated TOIL provisions</p>	Premium payments (overtime/enhancements/ night rate etc) will now continue to include the £105 London Weighting component in the hourly rate calculation.
6.5	Night Work	<p>Reduce the night work rate to the single enhancement rate of 0.25 for work between the hours of 10.00pm to 6.00am, remove the £105 Outer London Weighting element currently applied to the hourly rate calculation and remove all associated Time Off in Lieu (TOIL) provisions – eg reduce the current rate for night work from 0.33 to 0.25</p>	<p>Night Rate allowance will now continue to be paid as it currently is paid (ie at the 1.33 rate).</p> <p>Premium payments (overtime/enhancements/ night rate etc) will now continue to include the £105 London Weighting component in the hourly rate.</p>
6.6	Overtime (up to spine point 28)	<p>Apply a single Overtime rate of 1.25 time and remove the £105 Outer London Weighting element currently applied to the hourly rate calculation.</p> <p>The Council also aims to reduce the number of overtime hours worked in corporate directorates by 25%.The decision as to whether the number of overtime hours worked in C/VC schools to remain a matter entirely for each C/VC school to determine.</p>	Premium payments (overtime/enhancements/ night rate etc) will now continue to include the £105 London Weighting component in the hourly rate.

6.7	Contractual Overtime	<p>Apply a single Overtime rate of 1.25 time and remove the £105 Outer London Weighting element currently applied to the hourly rate calculation.</p> <p>The Council also aims to reduce the number of overtime hours worked in corporate directorates by 25%.The decision as to whether the number of overtime hours worked in C/VC schools to remain a matter entirely for each C/VC school to determine.</p>	Premium payments (overtime/enhancements/ night rate etc) will now continue to include the £105 London Weighting component in the hourly rate.
6.8	Planned Overtime (spine point 29 and above)	<p>For new Grades up to and including Grade 10 - apply a single Overtime rate of 1.25 time and remove the £105 Outer London Weighting element currently applied to the hourly rate calculation.</p> <p>Remove Overtime for new Grade 11 and above.</p> <p>The Council also aims to reduce the number of overtime hours worked in corporate directorates by 25%.The decision as to whether the number of overtime hours worked in C/VC schools to remain a matter entirely for each C/VC school to determine.</p>	Premium payments (overtime/enhancements/ night rate etc) will now continue to include the £105 London Weighting component in the hourly rate.
6.9	Shift Allowance	Reduce the various rates of shift allowance to a single rate of 5%	Shift pay allowance has been increased to 7% for day shifts and 10% for night shifts.
6.10	Standby	Remove standby payments in service areas where standby arrangements are considered unnecessary (eg as per ICT). Where standby payments are considered necessary pay at a single rate of 1hour of Overtime per standby period – no TOIL.	Standby allowance will be changed to differentiate between periods of more than/less than 24 hours. Exact rates to be determined.
6.11	Call Out	Where actually called out pay at a single rate equal to the Overtime rate for that role for actual hours called out (including travel time) – no TOIL	No change
6.12	Car Allowances	Remove Essential Car User lump sum allowance and increase Essential Car User mileage to HMRC rate (45p per mile). Reduce Casual Car User mileage to HMRC rate (45p per mile)	No change
6.13	Honorarium	Review and tighten up the circumstances in which an honorarium payment is paid in the corporate directorates (eg by removing the current criteria of payment to recognise the	Honoraria will be paid for up to nine months, not six as originally proposed.

		<p>carrying out of a one-off piece of project work; removing the ability to extend honoraria beyond a 6 month period)) in order to reduce the frequency that honoraria payments are made in order to reduce expenditure by 90%.</p> <p>The decision as to whether to review and tighten up the circumstances in which an honorarium payment is paid in C/VC schools to remain a matter entirely for each C/VC school to determine.</p>	
6.14	First Aid	<p>Leave the current rate of payment unchanged.</p> <p>The Council will review the number and distribution of qualified First Aiders in the corporate directorates to ensure relevant statutory requirements are met but to also ensure they are not unnecessarily exceeded. This may result in a reduction in numbers of First Aiders.</p> <p>The decision as to whether to review the number and distribution of qualified First Aiders in C/VC schools to remain a matter entirely for each C/VC school to determine.</p>	No change
6.15	Laundry	Remove the current Laundry Allowance	No change
6.16	Noise Abatement	Remove the current Noise Abatement Allowance	No change
6.17	Tools	Remove the current Tool Allowance	No change
6.18	Market Supplement	<p>Continue to apply Market Supplements where there is an approved business case evidencing future recruitment and/or retention difficulties.</p> <p>Current Market Supplements to be adjusted where basic salary changes as a result of JE/Grading proposals</p>	No change
6.19	Three Year Plussage	Revised since Governance Committee Report of 31/08/16 – the proposal was removed from the T&C proposals.	Not applicable
6.20	Additional Payments	Huge variety of miscellaneous payments paid via the payroll element “Additional Payments”. Some of these payments such as Shift Allowance/Honoraria/ThreeYearPlussage already covered above. All other payments (eg Accelerated increments;	No change

		Dog money; Phone allowance; Split Duty) will be terminated unless specifically identified in the Council's T&C Review	
6.21	London Living Wage	Introduce a new supplement to ensure that hourly basic pay is equal to the current London Living Wage rate (this currently affects new Grade 1 only) – the supplement will be considered for approval by Council on a rolling annual basis as part of the approval process for the Pay Policy Statement	No change
6.22	Redundancy Pay	The proposal at the start of consultation was that the statutory maximum level of weekly pay (currently £479) would be applied to the calculation of all redundancy payments. This would reduce the maximum total redundancy payment to £14,370.	The Council has changed this proposal to apply a maximum total redundancy payment of £30,000 (currently tax free).
6.23	Teaching Assistant 2 (TA2) Allowance	Apply an allowance of £402pa (pro rata) to all TA2 roles to differentiate between TA1 and TA2 roles	The TA2 allowance has been increased to £465 (pro rata) following a request from the trade unions for the payment to be calculated over the number of term-time weeks actually worked rather than over 52 weeks.
6.24	LALO	Apply an allowance of £1000pa (pro rata) to employees who undertake the Local Authority Liaison Officer role	No change
7	MISCELLANEOUS		
7.1	Employee Benefits	The Council is open to introduction of a new and coordinated approach to employee benefits and intends to survey all employees (including those in C/VC schools) as a separate exercise outside the scope of the T&C Review and after the T&C Consultation period has ended, about the range of employee benefits available which would be of most interest	No change
7.2	Employee Recognition	<p>The Council is open to the introduction of a new and coordinated approach to employee recognition and will invite suggestions from all employees in the corporate directorates about the most appropriate means to do so as a separate exercise outside the scope of the T&C Review and after the T&C Consultation period has ended</p> <p>The decision as to whether to introduce an employee recognition approach in C/VC schools remains a matter entirely for each C/VC school to determine.</p>	No change

7.3	HR Policies	A number of existing HR Policies will be modernised and updated (eg the Organisational Change & Redundancy Policy) and a number of new HR Policies will be developed (eg a Job Evaluation Policy) to reflect the T&C Proposals	No change
7.4	Contracts of Employment	Apply modernised and updated contracts of employment templates to reflect the T&C Proposals	No change
7.5	Equality Analysis	<p>In accordance with the Council's Managing Organisational Change & Redundancy policy, an initial Equality Analysis will be carried out on the Council's initial T&C Proposals prior to the launch of employee consultation and on the finalised T&C Proposals after employee consultation and a summary statement will be provided to employees as part of the T&C Consultation launch information.</p> <p>The Council will commission an independent consultant to carry out both of the above Equality Analyses of the Council's T&C Proposals.</p>	No change

GOVERNANCE COMMITTEE

11 January 2017

Subject Heading:

Proposed Termination of the Salary Plusage Scheme

CMT Lead:

Andrew Blake Herbert, Chief Executive and Head of Paid Service

Report Author and contact details:

Kathryn Robinson, Deputy Director of Legal and Governance and Monitoring Officer

Policy context:

The Council has reward and retention payments for employees as required which are reviewed annually at Full Council in the Annual Pay Policy.

Financial summary:

The advice is that the Scheme is no longer permissible in law and should cease. Any 'exceptional hardship' payments will be decided by the Head of Paid Service.

The subject matter of this report deals with the following Council Objectives

Havering will be clean and its environment will be cared for	<input type="checkbox"/>
People will be safe, in their homes and in the community	<input type="checkbox"/>
Residents will be proud to live in Havering	<input checked="" type="checkbox"/>

SUMMARY

The Salary Plusage Scheme was introduced by the Council in 1965. It provides for additional salary payments to some Council employees and it would appear it may have been designed at that time as a staff retention tool and to reward long service. Members are advised that following a detailed review of these arrangements the Scheme is no longer reasonable or justified and accordingly is no longer permissible in law and that further payments under the Scheme should cease. This report sets out the steps that officers advice be taken by the Council.

RECOMMENDATIONS

That Members:

1. Agree that the Salary Plusage Scheme does not serve the purpose for which it was introduced and that continued payments under the Scheme are not legally permissible (save in the limited circumstances set out in this report).
2. Agree the steps set out in paragraphs 13 to 18 of this report to cease payments under the Scheme.
3. Delegate authority to the Head of Paid Service to take such actions and steps incidental to 1 and 2 above as are necessary to bring an end to the Scheme, including but not limited to exercising discretion to make some extra payments in exceptional circumstances/hardship cases.

REPORT DETAIL

Historical Context

1. The Salary Plusage Scheme has been in operation for over 50 years since September 1965. The explicit purpose of the Scheme is unclear but appears to have been to facilitate staff retention of experienced employees and to reward long service.
2. The Scheme provides that employees with more than 25 years of Local Government Service receive a salary plusage or enhancement for the final three years of that service at a rate of 0.3% of salary for each year of service with the Council and 0.2% for each year of service with other local authorities. The plusage is only paid to “officers”. It is not paid to former manual workers.
3. In 1997, a decision was made by the Council to phase out the Scheme and only employees employed as at 24 September 1997 remained entitled to qualify for the plusage. Any person employed after that date is not so entitled.
4. As at August 2016 there were 655 employee assignments (people held against jobs) across the corporate organisation and across Community/Voluntary Controlled schools where the employee had been continuously employed since 24 September 1997 and who were therefore potentially eligible to receive the Salary Plusage payment. Since an

employee may have more than one job, there may be slightly fewer employees affected than the employee assignment numbers suggest.

The Recent Review

5. The Council is reviewing employees' terms and conditions of employment and during the course of that review officers addressed the Salary Plusage Scheme as part of that process. By Summer 2016 it became apparent, after analysis of the payments made under the Scheme, that it may be legally problematic and the Council indicated in notifications to staff via the Council's intranet on 15th August 2016 and in the Terms and Conditions consultation booklet that, subject to legal advice being taken, it was proposing to terminate the Scheme except for those already in receipt of payment under the Scheme before 12 August 2016. New applications under the Scheme were frozen as from that date and that remains the case.
6. Recent analysis of the operation of the Scheme shows that:
 - a) As at August 2016 there were 655 employee assignments across the corporate organisation and across all Community/Voluntary Controlled schools where the employee had been continuously employed since 24 September 1997 and who were therefore potentially eligible to receive the Salary Plusage payment. Eligibility would be confirmed only after examination against the Scheme criteria on a case by case basis prior to the commencement of any payment.
 - b) Of these 655 employee assignments, 7 had already received Salary Plusage in full.
 - c) Of the remaining 648 employee assignments, 18 were then already receiving the Salary Plusage payment.
 - d) Of the remaining 630 employee assignments 200 had satisfied the 25 years Local Government Service criterion and were therefore eligible to apply for the Salary Plusage as at 11 August 2016 but had not done so.
 - e) Of the 18 employee assignments then receiving the Salary Plusage payment, the average monthly payment was £310 and the average total 3 year payment was £11,160. The payments also result in enhanced pension payments. The potential total cost to the Council in making all salary plusage payments in full is set out below under "Implications and Risks"
 - f) Of the 630 employee assignments, 366 were in the corporate organisation.
 - g) Of the 630 employee assignments, 264 were in Community/Voluntary Controlled schools.

Council Powers to pay Employees

7. The Council has the power to pay its employees reasonable remuneration. Payments beyond that which the Council has power to make are unlawful:
 - a. The Council may pay its staff reasonable remuneration: s.112, *Local Government Act 1972*;
 - b. Case law provides the parameters of reasonable remuneration:
 - i) the amounts paid must not substantially exceed normal market rates or be excessively or irrationally generous. Where the payment of wages is well in excess of the market rate it amounts to giving money away unnecessarily. The Council gets no value for the overpayment part of the wages
 - ii) The Council can increase pay or pay additional amounts provided that such increases or amounts are paid for a proper purpose and are not irrationally generous. Payment made at the end of employment simply to enhance retirement benefits or for some other purpose which does not benefit the Council may be considered *ultra vires*.
 - iii) An enhancement paid towards the end of employment might not be unlawful where it genuinely rewards long service and is paid in order dissuade existing staff from leaving (retention payment) so that the Council obtains a corresponding benefit from loyal and long service. However, it is more likely that such enhancements will be considered lawful if paid on merit rather than automatically.
 - iv) In deciding whether a retention payment is lawful it is necessary to consider how realistic it is that employees might leave the Council if the payment were not made, and whether the extra benefit was commercially worthwhile for the Council.

Analysis of the current use of Salary Plusage

8. Applying these legal parameters to the Scheme, Members are advised that the position, on analysis, is as follows:
 - a. When the Scheme was introduced in 1965, it seems the Council considered that the plusage could be an appropriate award for the purposes of long service and retention. This is not a case, therefore, of the Scheme being unlawful from the outset. Of course, the Council must keep such payments under review to ensure that they continue to serve the purposes for which they were introduced. The question is whether, in view of the recent analysis, continued payments under the Scheme still have any discernible effect on retention.

- b. There is no evidence that the Council's rates of pay are currently significantly below market rates or that its workforce is unstable due to pay dissatisfaction. The Council's turnover rate of corporate employees (i.e. excluding all Schools based staff) – that is the rate at which permanent employees leave the Council's employment – is relatively low as compared to other London Boroughs. In 2014-15, the turnover rate was 10.3% and in 2015-16 the rate was 13.21%. Both these rates place the Council well down the lower half of all London Boroughs for turnover.
- c. The question which then arises is whether the additional pay represented by the plusage serves any commercially worthwhile purpose so as to benefit the Council. If it does not then there would be a real danger that the payment would be considered by the Court to be unlawful by reason of being an irrationally generous top-up to enhance pension payments.
- d. The award is paid automatically to those who are eligible under the Scheme without any consideration of the merits of making the award in any individual case. The absence of any discretionary aspect to the making of the award weighs against the payments being lawful.
- e. The recent analysis undertaken strongly suggests that the award no longer has any discernible effect on retention;
 - i. We have no evidence to determine whether the retention rate amongst the pre and post-September 1997 cohorts are significantly different;
 - ii. The information as to leavers over the last two years (2015 & 2016) tends to suggest that the prospect of getting a plusage did not tempt all staff with close to 25 years' service to stay on in order to receive it. As at 10 November 2016, a total of 1031 employees (490 corporate employees and 541 Community/Voluntary Controlled schools employees) had left the Council's employment during the previous two years (2015 and 2016). 867 of these were recorded as resignations (398 corporate employees and 469 community/voluntary controlled employees) and 18 of these were employees that were eligible for salary plusage. A further 19 employees were within 5 years of being eligible but left voluntarily in any case.
 - iii. A snapshot of current vacancies within the Council (as at 1 November 2016) shows that for the majority of positions on offer (other than Social Worker posts), the ratio of applications to vacancies was quite high with particularly high levels of interest in Administrative, Clerical and Housing roles. This tends to support the conclusion that there is no difficulty in recruiting employees to these types of jobs and therefore any enhanced payments are not required.

- iv. The plusage amounts, on average, to about £11,000 over 3 years. This is not an insubstantial enhancement and would have quite a significant effect on pension levels. By comparison the majority of the market supplements (which are paid by the Council to address recruitment or retention issues in specific cases) prior to October 2016 were at the rate of around £2,000 per annum and since October when a review was undertaken these have increased to £4,000 per annum for Social Workers. This means that in many cases the Council has historically been paying significantly more by way of an automatic benefit than it does by way of market supplements to attract / retain specialist and hard to recruit to posts.
- v. There are at least 7 employees who, having received their plusage in full, remained with the Council and did not leave. It would appear that for those employees the cessation of the plusage did not cause them to leave to take up employment elsewhere. This would further undermine any suggestion that the Scheme had a significant retentive effect (although one cannot discount the possibility that alternative opportunities for those in their post-plusage years were so limited that remaining in post was the only realistic option).
- vi. It has been the Council's practice to pay plusage as an automatic lump sum to staff who are eligible for the Scheme and who are made redundant where at the point of redundancy the full value of the plusage had not yet been paid. A plusage payment made in those circumstances cannot be said with any certainty to have had any effect on retention.
- vii. As at August 2016 there were 200 employee assignments where employees were already entitled to apply for Salary Plusage but had not done so. There may be many reasons for this including that people may hope that payment would be higher at a later stage of employment. However, it is relevant to note that following the notice on intranet about the proposed ending of Salary Plusage, out of the 30 enquiries subsequently received, 10 were from employees who were eligible for the scheme but who were unaware that the Scheme existed or that they qualified. It is also apparent from recent discussions with the Unions that there was also a general lack of awareness of the Scheme amongst some of them. If there is a lack of general awareness that the Scheme even exists amongst those eligible, it is unlikely that the Scheme is having any effect on retention in relation to those individuals.

The table below shows that the vast majority of the pre-September 1997 employees (79%) live locally within the "RM" postcode which is where the Council offices are located. This suggests that

proximity to the workplace might be a significant retentive factor for this cohort, although this is not conclusive.

Postcode	Percentage of employees	
RM	79%	Romford and surrounding area
CM	11%	Chelmsford, Braintree, Billericay and surrounding area
SS	6%	Southend and surrounding area
IG	2%	Ilford and Barking
East London	1%	East London
Other	1%	Various
Grand Total	100%	

Consultation with the Unions

9. The Council has consulted the Trade Unions for their views in respect of the Scheme. Their view, in summary, is that the Scheme is a contractual benefit which should continue to be paid. It also says that as the Scheme is winding down in any event with final payments being made in September 2022, there is no need to cease payments now as they felt not many staff would be eligible. However, the Trade Unions do not provide any further statistical or other information or analysis that would assist in determining whether the Scheme still serves the purpose for which it was originally introduced.

The Trade Union view is incorrect when they say that final payments would be made in September 2022. The latest date where an employee would become eligible for payment under the scheme, due to commencing employment just prior to the cut-off date of 1997, is August 2029 and assuming that payment commenced immediately, the last payment under the scheme would be made in August 2032. It is considered that it would not be appropriate to let matters remain as they are just because there are only sixteen years of the Scheme left. This approach takes no account of the fact that Scheme payments are an unnecessary salary top-up being paid for no discernible benefit to the Council, and would not be in the public interest.

Conclusion on the lawfulness of any future Scheme payments

10. Taking all of the above matters into account and having regard to the limits on the Council's powers to remunerate its employees, Members are advised that, on balance, it is more likely than not that further plusage payments under the Scheme would be considered irrationally generous and therefore unlawful by the Court. This is principally because they are paid

automatically irrespective of merit in circumstances where the payments do not currently have any discernible effect on retention.

Steps proposed to be taken

11. It is likely to be the case that the Salary Plusage payments have, as a matter of custom and practice, become part of the contractual terms of employment of those employees who satisfy the criteria. However, if payments under the Scheme are no longer lawful, then the Council is not in a position to continue making them and they should cease. The Council is however, also entitled to take into account industrial relations considerations in the management of the cessation of these payments and accordingly the manner in which it is proposed the issues be dealt with. The Council would not be acting reasonably if it failed to give at least some notice of the cessation of the Scheme in the event of a decision that continued payment would be unlawful. It is therefore considered that one month's notice would be reasonable in the circumstances, for those currently in receipt of salary plusage. It is recognised that there may be cases where that period of notice would involve particular hardship and the Council will therefore consider whether exceptions should be made in cases where particular hardship is evidenced. There may also be some employees who can demonstrate they were about to access the Scheme and who are now exceptionally affected by termination. The Council might consider that some payment should be made in such cases.
12. The proposed steps to be taken are addressed by reference to the following categories of employees:
 - a. Those who have already received their plusage in full;
 - b. Those in receipt of an enhanced pension based on the plusage;
 - c. Those who are currently receiving their plusage where the three-year period is yet to expire; and
 - d. Those who expect to receive the plusage.

Those who have already received their plusage in full

13. As stated above, this is not a case where the Scheme has been unlawful from the outset. As such, plusage payments made whilst the Scheme was still considered to be lawful remain valid payments. Those who received the payments have done so in good faith and in the expectation that the payments received were lawful. Such employees can reasonably expect that the Council will not seek to recoup monies which were thought to have been lawfully paid. No action is therefore appropriate in these cases

Those in receipt of an enhanced pension based on the plusage.

14. This cohort is in the same position as those who have already received their plusage. Their pension entitlements are based on enhancements which were considered lawful at the time and which were received in good faith. No action is therefore appropriate in these cases

Those who are currently receiving their plusage where the three year period is yet to expire

15. The position is the same for this cohort in respect of payments already received. However, as for future and outstanding payments, where the Council determines that further payments would be irrationally generous, such payments should cease. It is proposed that one month's notice of termination be given, but that the Council will consider whether there are cases where particular hardship would be caused by cessation on one month's notice. In these exceptional circumstances, consideration will be given to whether some other payment is appropriate. These situations will be considered on a case by case basis by the Head of Paid Service. Where a case of hardship is accepted, the Head of Paid Service may approve some additional payment.

Those in the expectation of receiving the plusage

16. There are employees who satisfy the criteria for Salary Plusage but who have not applied, or have applied since the freeze date of 12th August 2016. As at the freeze date there were some 200 employees who were eligible to apply for the plusage but who had not done so. There are also persons who are not yet entitled to apply for Salary Plusage because they have not yet achieved 25 years service, but who may qualify and apply in the future.
17. The Council will consider applications made post 12th August 2016 by those who have the requisite service as at the date of this decision on a case-by-case basis: Those who can evidence that they were about to apply when the freeze date was imposed may receive some payment in line with the time frame for those who are already in payment under the Scheme. Again some discretion may also be exercised in cases of exceptional hardship. These situations will be considered on a case by case basis by the Head of Paid Service. Those who do not qualify for the scheme as yet, or who qualify but do not evidence that they would have applied in this period will not receive any payment.
18. A letter by way of notice and explanation will be sent to the Unions and all those who have or would have qualified for Salary Plusage setting out the position.

IMPLICATIONS AND RISKS

Financial implications and risks:

19. As outlined above there are 655 Corporate and Community/Voluntary Controlled schools employee assignments where the employee had been continuously employed since 24th September 1997, of which 7 have already received Salary Plusage in full, and 18 are currently in receipt of the Salary Plusage payment leaving 630 employee assignments potentially eligible for the Scheme. If it were legally permissible for the Scheme to continue (which members are advised it is not), and all those potentially eligible applied, based on current average 3 year payments totalling £11,160 per employee assignment, the overall remaining cost of the Scheme could be in the region of £7,030,800. The enhanced salary also has an impact on the pension fund.
20. If all 200 employee assignments who were currently eligible to apply to receive Salary Plusage at the cut-off August 2016 date did so and payments were made for the full 3 years, the cost of the Scheme would be £2,232,000.
21. There are in total 366 corporate employee assignments (including the 200 above) where the employee has been continuously employed since 24th September 1997 and are therefore potentially eligible to receive the Salary Plusage payment. If all 366 applied for plusage and were paid for the three years the total costs would be £4,084,560 which would be met corporately funded from reserves.
22. In the Community/Voluntary Controlled schools there are 264 employee assignments where the employee has been continuously employed since 24th September 1997 and are therefore potentially eligible to receive the Salary Plusage payment. If all 264 applied for plusage and were paid for the three years, the total cost to schools would be £2,946,240 which would be met by the relevant school's delegated budget.

Legal implications and risks:

23. The powers of and restrictions upon local authority payments to its employees are set out in the body of this report, and the operation of Salary Plusage is analysed with reference to the law. It is the advice of the council's Monitoring Officer, having regard to external advice obtained from Queen's Counsel, that it is more likely than not that continued payments under the Scheme would be regarded by the Court as irrationally generous and no longer justifiable for the reasons set out in this report.
24. Accordingly Members are advised that:
 - a. continued payments under the Scheme are not legally permissible and should cease;

- b. the steps set out in paragraphs 13-18 of this report should be taken to cease payments under the Scheme;
 - c. these steps are permissible in law in that the Council is entitled, as a reasonable authority and in the interests of maintaining industrial relations, to make reasonable payments by way of 'notice' even where the Scheme is declared unlawful. The extent and scope of those payments after the Scheme has ceased cannot be extensive, since to do so would be to continue to give effect to the Scheme. In reaching a decision about such payments the Council should also have regard to its fiduciary duty of which the legislation on irrationally generous payments is part.
 - d. The steps proposed for the termination of the Scheme take account of the employees' rights. It is appropriate in the circumstances for the Committee to delegate authority to the Head of Paid Service to take such action and steps incidental to Recommendations 1 and 2 above as are necessary to bring an end to the Scheme so that practical steps, including agreeing any payments can be decided expeditiously and without return to Committee for further decisions.
25. A decision relating to the terms and conditions of staff is a non-executive function under the *Local Authorities (Functions and Responsibilities) (England) Regulations 2000*. In accordance with the decision made by Full Council in March 2016 the decisions under Recommendations 1, 2 and 3 above are delegated to the Governance Committee and are reflected in the Council's Constitution within the Committee's terms of reference. Members are advised that the decisions within this report affect or potentially affect a high number of employees with a range of salary grades. While this matter has been addressed outside of the overall terms and conditions review it does nevertheless concern employees' terms and conditions and therefore falls within the delegation to the Governance Committee.

Human Resources implications and risks:

26. The implications for individual employees are set out in the body of this report. The decision has no human resource implications for the wider workforce nor for the Council as a whole.

Equalities implications and risks:

27. The Council has considered the equalities implications of terminating payments under the Scheme. The Council does not consider that termination would have any discernible differential impact in terms of equalities and protected characteristics. Insofar as it did have such impact, this would be justified by the fact that such payments would be likely to be regarded as unlawful as being irrationally generous. That justification is wholly neutral as far as any protected characteristic might be concerned.

Accordingly, the Council considers that there are no equalities implications arising from the proposed steps and/or that the risks of such are minimal.

BACKGROUND PAPERS

None