

GOVERNANCE COMMITTEE

20 JULY 2017

Subject Heading:

**Terms and Conditions Review –
Decision Report**

SLT Lead:

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Chief Executive**

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Policy context:

Havering – making a Greater London

Financial summary:

The Council's medium term financial plan includes a saving target of £0.500m in 2017/18 for the general fund in respect of the T&Cs review. This is achievable from 2018/19 onwards, however due to a combination of delayed start date and pay protection this isn't achievable in 2017/18 and will need to be funded through the Risk Reserve.

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

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SUMMARY

The report asks the Committee to approve changes to employees' terms and conditions of employment (T&C's) and relevant implementation dates.

RECOMMENDATIONS

That the Governance Committee:

1. Delegate authority to the Chief Executive to take such actions and steps necessary for the completion and signing of a Collective Agreement with trade unions (including the actual signing of the Collective Agreement document on behalf of the Council). This to include any necessary changes to the wording of the Collective Agreement excluding any changes to the substance of the proposals themselves.
2. In the event that a Collective Agreement is signed, approve the Final (Collective Agreement) Proposals detailed at Appendix 1 and the recommended Implementation Date detailed at paragraph 42 but delegate authority to the Chief Executive to adjust that date for corporate directorates and/or Community/Voluntary Controlled schools by up to 3 months if necessary.
3. In the event that a Collective Agreement is not signed, provisionally determine the Recommended (No Collective Agreement) Proposals as set out in paragraphs 46-47 and Appendix 2 (Column C) and delegate authority to the Chief Executive to finalise those proposals (including the authority to amend the substance of the proposals that were previously subject to Collective Agreement), approve Option 5 as the method to implement the approved proposals as set out in paragraph 48 and approve the recommended Implementation Date detailed at paragraph 49 but delegate authority to the Chief Executive to adjust either or both of those dates by up to 3 months if necessary.
4. Approve the proposal to meet the one-off pay protection and other costs in Community/Voluntary Controlled schools from the Risk Reserve as detailed at paragraph 24 (Table 5).

REPORT DETAIL

Background

5. The Council has undertaken a review of the terms and conditions of employment (T&C's) of its staff (including job evaluation). 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, the Council's medium term financial plan has an approved saving target of £0.500m to be delivered in 2017/18. The saving is to be achieved from the Council's non-schools corporate pay bill i.e. excluding the housing revenue account (HRA), dedicated schools grant (DSG) and public health budgets.

6. A Terms & Conditions Board (T&CB) was established, chaired by the Chief Executive, to direct the review. A Terms & Conditions Consultation Forum (T&CCF) was also established with trade unions to provide a forum for T&C consultation and negotiation. The T&CCF comprised the Chief Executive, Director of HR &OD and the Branch Secretaries of Unison, GMB, Unite, NUT and NASUWT.
7. A provisional set of proposals was provided to this Committee at the 31 August 2016 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.
8. Although not required at this stage under statutory consultation requirements, 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. 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 have changed as a result of the consultation process, the initial equality analysis is now out of date. A second equality analysis has been carried out on an updated data set and reflecting revisions to the Council's Initial Proposals, as required under formal consultation (see paragraph 25 below).

Formal consultation and Initial Proposals

9. Formal consultation with staff on the Council's Initial Proposals commenced on 19 September 2016 for a 45 day period ending on 2 November 2016 (subsequently extended to 9th December). To launch the consultation, the Chief Executive wrote to over 4,300 employees individually 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.

10. To support the launch of consultation, the Chief Executive led 2 large-scale briefing sessions for over 500 managers (including Head Teachers and trade union representatives). 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 Council's intranet and website 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 and on the Council's website.
11. A full set of the Council's Initial Proposals (ie at the start of the consultation period) are set out at Appendix 1. The key proposals were:
 - To replace the Greater London Whitley Council (GLWC) job evaluation scheme with the Greater London Provincial Council (GLPC) scheme (which is used by the vast majority of London councils and a number outside London) and to replace the Hay job evaluation scheme with the Local Government Employers (LGE) Senior Management job evaluation scheme
 - 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 (TA1) and Teaching Assistant 2 (TA2) roles (both of which have been evaluated at proposed new Grade 2), the Council proposed to apply a new contractual TA2 allowance of £402pa pro rata for the TA2 role (Note: This proposal was first revised during the consultation process to £465pa pro rata and subsequently revised again to £687pa pro rata – both revisions were subject to a Collective Agreement being signed).
 - 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
12. A small number of changes were made to the provisional proposals previously provided to the Committee on 31 August 2016. In summary these were:
 - To remove Salary Plusage from the T&C Review - Governance Committee subsequently approved the termination of the Salary Plusage scheme on 11 January 2017
 - 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 initial proposal at the start of consultation was

that the statutory maximum level of weekly pay (then £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 proposal was subsequently revised during the consultation process to a maximum total redundancy payment of £30,000 - subject to a Collective Agreement being signed).

13. To support the consultation process, the T&CCF have continued to meet on a regular basis to discuss relevant feedback and alternative proposals.
14. 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 were provided and the project review team 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.

15. There were a number of items of feedback e-mailed to the Terms and Conditions inbox from staff during the consultation period which showed some concerns on allowances and pay protection which have helped form consultation proposals. Feedback from SLT, managers and Head Teachers also covered similar issues.
16. Throughout the statutory consultation period, 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 job evaluation scheme instead of the Council's proposed structure
 - To increase basic pay protection to three years from the initial proposal of 6 months protection - (currently basic pay is protected for 12 months)
 - That the Essential Car User Allowance be kept as it had recently been agreed (reviewed in 2014/15)
 - Extend new Grades 2/3 to include an additional spinal point to increase basic pay at the top of those grades
 - That the redundancy cap remains at the (then) 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 for Teaching Assistant 3 roles
 - That the proposal to introduce performance based progression is removed until schools have a performance assessment system in place,

the Council has reviewed the corporate scheme and the trade unions have agreed both schemes

17. 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 the trade unions.** 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 minor adjustments to the revised proposals were tabled at T&CCF meetings from December 2016 to February 2017 (**some of which were also made subject to a Collective Agreement being signed**) – these are also detailed in Appendix 1.
18. During the statutory consultation period, staff had the opportunity to submit an appeal against the proposed job evaluation (JE) outcome of their substantive Job Profile. 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 296 Job Profiles for which an appeal has been submitted during the consultation period and subsequently completed (238 corporate and 58 C/VC schools). Please note these numbers relate to the number of Job Profiles that were appealed – since many Job Profiles are applied to more than one employee at a time (eg the TA2 Primary Job Profile is applied to 457 employees) the number of employees affected by the appeals process would be higher). In accordance with best practice, following the completion of the JE appeals, a further round of moderation of JE evaluations was carried out jointly by the Council and the trade unions, resulting in a final set of JE outcomes agreed jointly by the Council and the trade unions. Please note that since employee consultation commenced in September 2016, we have continued to provide all new starters and all employees who have moved to a new substantive position (eg through a restructure) with the opportunity to submit an appeal against the proposed JE outcome of their substantive post. There have therefore been a small number of further post-consultation appeals.
19. Post-Consultation Proposals (ie following the statutory consultation period and completion of JE Appeals/Moderation)
20. The Council's Post-Consultation Proposals (Appendix 1) along with the agreed JE outcomes were used to carry out the final round of pay modelling to identify the pay impact of the proposals (paragraphs 23-24) and to carry out the second/final equalities analysis (paragraph 25).

At this stage, the Chair of Governors and Head Teacher of each C/VC school were provided with the detailed pay modelling information for their school showing the pay impact on each individual employee and on the school overall. Chairs of Governors and Head Teachers were offered the opportunity for a one-to-one meeting with the T&C Project Manager to

discuss and clarify any issues arising – only one Head Teacher took up this offer. All Chairs of Governors were invited to feed back any comments which would be summarised and included in this decision report to Governance Committee. Only 3 Chairs of Governors provided feedback which is summarised in Appendix 3.

21. Impact on Pay

22. The tables in paragraphs 23-24 show the estimated impact of the Council's proposals on occupied positions (ie excluding vacancies) in all of the organisation (ie corporate directorates and C/VC schools) and in the corporate directorates and C/VC schools separately, both in relation to the Initial Proposals and in relation to the Post-Consultation Proposals. Please note that the changes in impact are as a result of the combination of the revisions to the Initial Proposals, revisions to JE outcomes and the change in the workforce profile (ie starters, leavers and individuals changing substantive roles through restructures and other internal changes).

23. Impact on Pay – 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 JE and Grading Structure proposals on basic pay (ie the impact of Allowance proposals are **not** included).

Across all of the Organisation, the Post-Consultation Proposals result in 77% of employees either seeing no change in their basic pay or will see an increase in their basic pay – this is a slight improvement on the corresponding Initial Proposals figure of 76%

Table 1

Impact on Employee	All Organisation Initial Proposals	All Organisation Post-Consultation Proposals	Corporate only Initial Proposals	Corporate only Post-Consultation Proposals	Schools only Initial Proposals	Schools only Post-Consultation Proposals
Green	16.0%	11.3%	26.3%	18.8%	3.8%	1.5%
White	60.1%	65.9%	55.0%	65.7%	66.2%	66.2%
Red	23.9%	22.8%	18.7%	15.5%	30.0%	32.3%
Red but by less than £100pa	8.5%	9.6%	4.3%	5.8%	11.6%	12.1%
Red by more than 10%	2.0%	2.0%	2.5%	2.4%	1.3%	1.6%

Table 2 shows the impact on TA2 roles of the JE and Grading Structure proposals on basic pay plus the impact of the TA2 allowance (ie the impact of all other Allowance proposals are **not** included). It is important to show the impact of the TA2 allowance since this is unlike all other allowances in that it is in effect in lieu of basic pay and should be considered along with the impact on basic pay.

Although the increased amount of TA2 Allowance does not change the number of Reds, it does reduce the amount of “Redness” as shown in the increase in number of TA2s that would be Red by less than £100.

Table 2

Impact on Employee	Basic + TA2 Allowance (£402pa) Initial Proposals	Basic + TA2 Allowance (£465pa) Post-Consultation Proposals
Green	24.7%	24.7%
White	0%	0%
Red	75.3%	75.3%
Red but by less than £100pa	8.1%	16.6%
Red by more than 10%	0%	0%

Table 3 shows the impact of the JE and Grading Structure proposals on basic pay plus the impact of the proposed changes to contractual allowances. 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).

Across all of the Organisation, the Post-Consultation Proposals result in 69.9% of employees either seeing no change in their contractual pay or will see an increase in their contractual pay – this is a slight reduction on the corresponding Initial Proposals figure of 70.3%.

Table 3

Impact on Employee	All Organisation Initial Proposals	All Organisation Post Consultation Proposals	Corporate only Initial Proposals	Corporate only Post Consultation Proposals	Schools only Initial Proposals	Schools only Post Consultation Proposals
Green	17.9%	12.9%	25.6%	17.5%	8.8%	6.8%
White	52.4%	57.0%	43.2%	52.6%	63.3%	62.8%
Red	29.7%	30.1%	31.2%	29.9%	27.9%	30.4%
Red but by less than	16.4%	23.2%	16.2%	19.5%	16.7%	28.1%

£100pa						
Red by more than 10%	3.1%	2.7%	4.5%	3.6%	1.4%	1.6%

24. Impact on Pay – Savings and Budgets

Table 4 shows the estimated pay bill cost reductions that would arise from the implementation of all of the Council's Post-Consultation Proposals.

The estimated £0.872m cost reduction to the General Fund budget would meet the budgeted savings from 2018/19, however there will be a shortfall against the saving target agreed by Council in 2017/18.

Excluding the impact of pay protection if the implementation date was the 1st September 2017 the proposals will achieve for the general fund approximately £0.509m of savings in year which is broadly in line with the saving target. However, if the date of implementation isn't until the 1st December 2017 there will be a shortfall of £0.209m as only £0.291m will be achieved. The shortfall if it arises will need to be met from the Risk Reserve..

Savings contributing to non general fund services will achieve £0.074m or £0.042m depending if the go live is the 1st September or the 1st December 2017.

It should be noted that the estimated £202k 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 school savings can not be guaranteed and are a matter for individual schools and governing bodies.

Table 4

Organisation/Budget	Cost Reduction
Corporate – General Fund Only	£872k
Corporate – All	£999k
Community/VC schools	£202k

Table 5 shows the estimated one-off costs of pay protection that would arise from the implementation of the JE and Grading Structure proposals under the Post-Consultation Proposals (Note: Currently only basic pay is protected through pay protection).

Currently pay protection is for 12 months full protection. The Council's Initial Proposal was to offer 6 months full protection. The Council's Post-Consultation Proposal is to protect pay for 9 months with 6 months full and 3 months half protection.

During the consultation process, Head Teachers had asked the Council to consider all or part of the pay protection costs that would arise in C/VC schools.

The T&CB have noted the estimated pay protection costs for C/VC schools (£206k across 40 schools) and individual school's current and projected budget/commitments and recommend that, for the financial year 2017/18, since schools have already budgeted to pay support staff salaries based on the current pay scales there would be no need to fund any of the pay protection costs that would arise in that year. However, the T&CB recommend that the Council do fund (from the Transformation Reserve) any remaining pay protection costs that arise in the 2018/19 financial year. T&CB also recommend that in exceptional circumstances any additional T&C implementation costs incurred by individual schools in 2017/18 over and above their current budget will be reviewed by the Council on a school by school basis for potential funding (wholly or partially) from the Risk Reserve.

The cost of pay protection will impact the savings delivered in 2017/18 and 2018/19. If the implementation date of the 1st September 2017 is used for the general fund, this will require one off pay protection costs of £0.377m in 2017/18 and a further £0.030m in 2018/19. Alternatively if the go live date was the 1st December 2017 this would require pay protection costs of £0.241m in 2017/18 and £0.166m in 2018/19.

The Community/Voluntary Controlled schools pay protection costs may need to be funded from the Risk Reserve in the unlikely event that the schools are unable to fund these from existing salaries budgets. The estimated maximum (based on a go live date of 1st December) would be £0.084m.

These non recurring pay protection costs will be met by the Risk Reserve

Table 5

Organisation	Pay Protection Costs
Corporate – General Fund Only	£407k
Corporate – All	£443k
Community/VC schools	£206k

Table 6 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 6

Organisation	Potential Pay Progression Costs
Corporate – General Fund Only	£1,651k
Corporate – All	£1,726k
Community/VC schools	(£59k) ie a cost reduction

25. **Equalities Analysis**

As members will have been previously advised, there is a Public Sector Equality Duty (section 149 of the Equality Act) to reduce inequality between protected characteristics. A second equalities analysis was carried out on the Post-Consultation Proposals by an independent equalities consultant selected in conjunction with the trade unions and is detailed at Appendix 4. The main conclusions are:

- No one group of people with a protected characteristic is significantly adversely affected as a result of the Council's proposals
- The proposals will have a positive impact on the Gender Pay Gap (Note: the proposals move the Council to a position slightly better than the national average)

26. The equalities analysis was shared with the trade unions. The trade unions two main concerns related to:

- the impact on employees in the TA2 role (which is occupied by 455 Females and 2 Males)
- the impact of the reduction in Shift and Enhancement Allowances

27. The trade unions indicated that if the Council were to reconsider the Council's Post-Consultation Proposals in these two areas, the trade unions would be minded to ballot their members on a potential Collective Agreement.

28. In relation to the TA2 role, the trade unions initially requested that the Council re-consider the evaluated grade (Grade 2) in the context that it has been evaluated at the same grade as the TA1 role. The Council has

confirmed that the evaluated grades of both roles are correct and that the fact that they are the same is an unfortunate consequence of the move to a broader banded grading structure. Consequently the trade unions asked the Council to consider increasing the amount of the proposed TA2 Allowance to £687pa pro rata (this is based on the difference between the maximum spine point of their current grade (ie spine point 17) and the maximum spine point of the proposed grade (spine point 15). This would mean that all of the TA2s who are currently Red circles would become White circles (see updated Table 2 below). The estimated cost of this would be approximately £54k and would therefore reduce the estimated cost reduction to “Community/VC schools” shown in Table 4 above to £148k.

Updated Table 2

Impact on Employee	Basic + TA2 Allowance (£402pa) Initial Proposals	Basic + TA2 Allowance (£465pa) Post-Consultation Proposals	Basic + TA2 Allowance (£687pa) Final (Collective Agreement) Proposals
Green	24.7%	24.7%	35.1%
White	0%	0%	64.9%
Red	75.3%	75.3%	0%
Red but by less than £100	8.1%	16.6%	0%
Red by more than 10%	0%	0%	0%

29. All Head Teachers were consulted over this proposed revision and all Head Teachers that responded (18 out of 40) confirmed they would support the proposal.
30. Therefore the Council’s Post-Consultation Proposals have been further revised to increase the TA2 allowance to £687pa pro rata, subject to a Collective Agreement being signed.
31. In relation to the impact of the reduction in Shift and Enhancement Allowances, the trade unions requested that the Council considered applying a pay protection period to these allowances in order to ease the transition period to the new allowance level. The estimated cost of this would be approximately £210k and would therefore increase the one-off pay protection figure for “Corporate – All” shown in Table 5 above to £653k.
32. Given that this would improve the chances of a Collective Agreement being signed, the Council’s Post-Consultation Proposals have been further revised to protect Shift and Enhancement allowances for a period of 6 months from the T&C Implementation Date.
33. These two further revisions to proposals have been included in the Council’s Final (Collective Agreement) Proposals which are shown at Appendix 1.

34. Collective Agreement

Throughout the consultation period, the Council's aim has been to try to reach a Collective Agreement with all recognised trade unions (on behalf of all employees).

A Collective Agreement would be a formal agreement with all recognised trade unions (on behalf of all employees irrespective of whether those employees were members of a trade union or not). If all the trade unions are prepared to sign a Collective Agreement (which detailed all the T&C proposals), it would mean that the Council would be able to automatically implement those proposals (after Governance Committee approval) by simply writing to all employees with new contracts of employment (which would reflect the agreed proposals) ie there would be no need to obtain the separate agreement of each individual employee to their new contract of employment.

It is therefore in the Council's best interests to try to secure a Collective Agreement.

To achieve a Collective Agreement the trade unions would need to sign the Collective Agreement (it would not be possible to complete a Collective Agreement if any one of the trade unions did not sign). To be able to sign a Collective Agreement each trade union would need to obtain a mandate to do so from their members – normally through a ballot.

35. A draft Collective Agreement has been provided to the trade unions in order for the trade unions to determine whether or not they will ballot their members regarding a mandate to sign it. A copy of the draft Collective Agreement is detailed at Appendix 5. Please note that the draft Collective Agreement details the Council's Final (Collective Agreement) Proposals as set out at Appendix 1. Those proposals can not now be changed (if the current draft Collective Agreement is to be progressed) since to do so would most likely require further trade union ballots of their members based on a revised Collective Agreement.
36. Unison, GMB and Unite confirmed on 4th July that they would ballot their members on the Council's Final (Collective Agreement) Proposals on the basis that those proposals are the best that can be achieved through negotiation. A joint Council/Trade Union statement confirming this was issued to all staff on 5th July and is attached at Appendix 6. GMB have informed their members that a rejection of those proposals may lead to a reversion to the Council's Initial Proposals which may lead to a subsequent ballot on strike action. The NUT have confirmed that they do not currently

have any members directly affected by those proposals so would not need to carry out a ballot in order to consider signing a Collective Agreement. We are currently waiting for the NASUWT to confirm whether they have any members directly affected by those proposals and whether therefore they need to carry out a ballot in order to consider signing a Collective Agreement.

37. The results of the Unison, GMB and Unite ballots are due to be provided by the afternoon of the 20th July and will be provided to the Governance Committee at the Committee meeting that evening.
38. However, it is possible that the results of all of the trade union ballots may not be known by the time that the Committee meets on the 20th July. Therefore, the following paragraphs deal with the two scenarios where either a Collective Agreement is still possible or where a Collective Agreement is not possible.
39. *If a Collective Agreement is still possible*
40. Provided that, at the time of the Governance Committee meeting, none of the trade union ballots have resulted in a rejection of the Council's final (Collective Agreement) proposals, the Committee are asked to consider approval of the Final (Collective Agreement) Proposals as set out at Appendix 1 in order to progress to implementation in the event that all of the trade unions subsequently sign the Collective Agreement (Appendix 5).
41. To facilitate this, the Committee are also asked to consider delegating to the Chief Executive the authority to take such actions and steps necessary for the completion and signing of a Collective Agreement with trade unions (including the actual signing of the Collective Agreement document on behalf of the Council). This to include any necessary changes to the wording of the Collective Agreement excluding any changes to the substance of the proposals themselves.
42. Subject to Governance Committee approval of the Final (Collective Agreement) Proposals, should a Collective Agreement subsequently be signed, the recommended Implementation Date would be 1st September 2017 in both corporate directorates and schools. This implementation date would enable the achievement of savings on the corporate pay bill at the earliest practicable opportunity whilst at the same time enabling schools to implement the change at the start of the new school year. However, this date is extremely challenging, especially if there is any delay to the signing of the Collective Agreement immediately after the Governance Committee meeting. Also, for schools, September is the month when there are a significant number of starters/leavers and other staffing changes being

implemented. Therefore the Committee are asked to consider delegating authority to the Chief Executive to adjust the recommended Implementation Date for corporate directorates and/or C/VC schools by up to 3 months if necessary.

43. The process for implementation would involve writing to all members of staff as soon as possible after the Collective Agreement is signed to inform them:

- of the Committee's decision
- that a Collective Agreement has been signed on their behalf by the trade unions
- to detail the changes to their terms & conditions of employment
- to inform them that a new contract of employment will be sent to them in due course
- to inform them that since a Collective Agreement has been signed by the trade unions on their behalf there will be no need for them to sign and return their new contract of employment

44. *If a Collective Agreement is NOT possible*

45. If, at the time of the Governance Committee meeting:

- one or more of the trade union ballots has resulted in a rejection of the Council's Final (Collective Agreement) Proposals
- and to cover the possibility that subsequent to the Governance Committee meeting one or more of the trade unions confirm that the ballot result has resulted in a rejection of the Council's Final (Collective Agreement) Proposals
- and to cover the possible scenario that despite all ballots resulting in an acceptance of the Council's Final (Collective Agreement) Proposals one or more of the trade unions (for whatever reason) still refuse to sign a Collective Agreement

then, the Committee are asked to consider whether any of the Council's revised proposals should be withdrawn, revised further or retained. This is because most of the revised proposals have been made subject to a Collective Agreement being signed.

46. Appendix 2 sets out the Council's Initial Proposals which have been "revised subject to Collective Agreement being signed", together with a recommendation (Column C) as to whether that revision should be withdrawn, further revised or retained (but without the signed Collective Agreement condition). Please note that Appendix 2 is exempt in accordance with Section 100 (A-h) of the Local Government Act 1972 and Schedule 12A as amended, on the grounds that it involves the likely disclosure of exempt

information as defined in Part 1, paragraph 3, as it contains information relating to the financial or business affairs of any particular person (including the authority holding the information) and disclosure would not be in the public interest. The Committee are asked to consider each proposal that was previously subject to Collective Agreement in turn and provisionally determine whether it should be withdrawn, further revised or retained and delegate authority to the Chief Executive to finalise those proposals (including the authority to amend the substance of the proposals that were previously subject to Collective Agreement).

47. The Committee's provisional determination on whether to retain, further revise or withdraw of any of the revised proposals will be combined with the Council's Initial Proposals to in effect produce a set of Recommended (No Collective Agreement) Proposals (Appendix 2 Column C). The Committee are asked to consider approval of those Recommended (No Collective Agreement) Proposals in order to progress implementation in the event that no Collective Agreement is subsequently signed by the trade unions.
48. If a Collective Agreement can not be signed, the Council would have a number of different options in relation to the implementation of the Council's Recommended (No Collective Agreement) Proposals (if approved by Governance Committee). The options and a relevant comment against each are set out below:

Option 1:

The Council could withdraw all proposals and leave everything as is.

This option would not deliver the necessary savings and would leave the Council open to potential equal value claims based on a continuation of the current approach to pay and grading, particularly an old job evaluation scheme. **This option is not recommended by Officers due to the risks involved.**

Option 2

The Council could apply the proposals (through the offer of a new contract of employment reflecting the changes) only to those employees that voluntarily accept the new contract of employment.

This option would only deliver some of the necessary savings, would provide additional logistical and on-going difficulties in operating different sets of terms & conditions to different people at the same time and would leave the Council open to potential equal value claims based on a continuation of the current approach to pay and grading, particularly an old job evaluation scheme. **This option is not recommended by Officers due to the risks involved.**

Option 3

The Council could apply the proposals (through the application of a new contract of employment) only to new starter employees.

As with Option 2, this option would only deliver some of the necessary savings, would provide additional logistical and on-going difficulties in operating different sets of terms & conditions to different people at the same time and would leave the Council open to future potential equal value claims based on a continuation of the current approach to pay and grading, particularly an old job evaluation scheme. **This option is not recommended by Officers due to the risks involved.**

Option 4

The Council could issue to all employees (12 weeks) notice of dismissal and an offer of simultaneous reengagement on new contracts of employment reflecting the changes. Employees would be encouraged to confirm voluntary acceptance of the new contract at any time during the 12 week notice period. Employees who did not confirm their acceptance of the new contract of employment would be deemed to have dismissed themselves and terminated their contract of employment with the Council. This would not constitute a redundancy situation and would not lead to a redundancy payment.

Whilst this option would deliver the estimated savings in the shortest timescale and would remove the potential equal value risk of continuing with the current approach to pay and grading, it risks the alienation of employees who would voluntarily accept the changes through acceptance of a new contract of employment. This option could lead to a significant reduction in workforce morale, motivation and performance and a significant increase in employee relations difficulties including the risk of industrial action. **This option is not recommended by Officers due to the risks involved.**

Option 5

The Council could offer new contracts of employment (reflecting the changes) to all employees and provide them with a period of time (eg 2/3 weeks) in which to confirm their voluntary acceptance of the new contract. For those employees that do not confirm voluntary acceptance of the new contract, the Council could then issue employees (12 weeks) notice of dismissal and an offer of simultaneous reengagement on the same new contract of employment. Employees would continue to be encouraged to confirm voluntary acceptance of the new contract at any time during the 12 week notice period. Employees who did not confirm their acceptance of the new contract of employment would be deemed to have dismissed themselves and terminated their contract of employment with the Council. This would not constitute a redundancy situation and would not lead to a redundancy payment.

Whilst this option would deliver the estimated savings (albeit in a slightly longer timescale than option 4) and would remove the potential equal value risk of continuing with the current approach to pay and grading, it also removes the risk (under option 4) of alienating employees who would voluntarily accept the changes through acceptance of a new contract of employment. This option could still lead to a significant reduction in workforce morale, motivation and performance and a significant increase in employee relations difficulties including the risk of industrial action but the risk is likely to be much lower than that associated with option 4. This approach has recently been administered in a neighbouring authority and is the only other option available in implementing changes lawfully.

For the reasons set out above, Option 5 is recommended.

49. If Option 5 is approved by Governance Committee the recommended implementation date would be 1st December 2017 in both corporate directorates and schools. This implementation date would enable the achievement of savings on the corporate pay bill at the earliest practicable opportunity. However, Head Teachers have indicated that in this scenario they may prefer an Implementation Date in schools of 1st January 2018. For this reason and to provide some contingency for unexpected problems, the Committee are asked to consider delegating authority to the Chief Executive to adjust the recommended Implementation Date for corporate directorates and/or C/VC schools by up to 3 months if necessary.

IMPLICATIONS AND RISKS

Financial implications and risks:

The paper sets out two key scenarios and the financial implications of each are set out in Table 7 and 8 below. The first assumes an implementation date of the 1st September 2017 assuming collective agreement is in place and the second based on a go live date of the 1st December 2017.

Table 7 – Based on a Go Live Date of the 1st September 2017

	2017/18	2018/19	2019/20
	£'m	£'m	£'m
General Fund			
Cost Reduction	(0.509)	(0.872)	(0.872)
Less Pay Protection Costs	0.377	0.030	
<i>Total (Saving) / Cost</i>	<i>(0.132)</i>	<i>(0.842)</i>	<i>(0.872)</i>
Saving Target	0.500	0.500	0.500
Shortfall in Saving Target / (Surplus in Saving Target)	0.368	(0.342)	(0.372)
<u>Non General Fund Services</u>			
Cost Reduction	(0.074)	(0.127)	(0.127)
Less Pay Protection Costs	0.033	0.003	
<i>Total (Saving) / Cost</i>	<i>(0.041)</i>	<i>(0.124)</i>	<i>(0.127)</i>
<u>Community/VC Schools</u>			
Cost Reduction	(0.118)	(0.202)	(0.202)
Less Pay Protection Costs	0.191	0.015	
<i>Total (Saving) / Cost</i>	<i>0.073</i>	<i>(0.187)</i>	<i>(0.202)</i>

The table above demonstrates that for the general fund there is a shortfall in the approved saving target for 2017/18 of £0.368m which will need to be funded from the Risk Reserve. From 2018/19 onwards the saving target will be exceeded by £0.342m and £0.372m respectively which will provide an additional opportunity to reimburse the Risk Reserve and further provide an opportunity to be factored into the medium term financial plan for future years.

For non general fund services, savings will accrue from 2017/18 onwards and these will be to the benefit of the ring fenced accounts.

For community/VC schools as set out in the body of the report the pay protection costs of £0.191m in 2017/18 and £0.015m in 2018/19 will need to be met from the Council and funded through the Risk Reserve.

Table 8 – Based on a Go Live Date of the 1st December 2017

	2017/18	2018/19	2019/20
	£'m		
General Fund			
Cost Reduction	(0.291)	(0.872)	(0.872)
Less Pay Protection Costs	0.241	0.166	
Total (Saving) / Cost	(0.050)	(0.706)	(0.872)
Saving Target	0.500	0.500	0.500
Shortfall in Saving Target / (Surplus in Saving Target)	0.450	(0.206)	(0.372)
<u>Non General Fund Services</u>			
Cost Reduction	(0.042)	(0.127)	(0.127)
Less Pay Protection Costs	0.021	0.15	
Total (Saving) / Cost	(0.021)	(0.023)	(0.127)
<u>Community/VC Schools</u>			
Cost Reduction	(0.067)	(0.202)	(0.202)
Less Pay Protection Costs	0.122	0.084	
Total (Saving) / Cost	0.055	(0.118)	(0.202)

The table above demonstrates that for the general fund there is a shortfall in the approved saving target for 2017/18 of £0.450m which will need to be funded from the Risk Reserve. From 2018/19 onwards the saving target will be exceeded by £0.206m and £0.372m respectively which will provide an additional opportunity to reimburse the Risk Reserve and further provide an opportunity to be factored into the medium term financial plan for future years.

For non general fund services, savings will accrue from 2017/18 onwards and these will be to the benefit of the ring fenced accounts.

For community/VC schools as set out in the body of the report the pay protection costs of £0.122m in 2017/18 and £0.084m in 2018/19 will need to be met from the Council and funded through the Risk Reserve.

The report sets out in paragraph 24 (Table 6) the risk that over the long term period the amended terms and conditions could increase general fund expenditure by £1.651m. The report sets out reasons why this is a risk which may not materialise given staff turnover and the number of staff not being paid at the top of their grade. Budget managers have responsibility for managing their income and expenditure inline with agreed budgets and therefore this is a risk that managers will need to contain as no corporate funding will be available.

Legal implications and risks:

In the event that Collective Agreement is not reached and option 5 is followed as recommended, staff will be dismissed and re-engaged. This is standard practice where consent is not given to the change of terms and conditions of employment. It is open to staff to not accept the new terms of employment and they may issue proceedings for unfair dismissal in the Employment Tribunal. In such circumstances the Tribunal will look at the reasons for the dismissal (in this case the need to remove outdated and inconsistent terms within the Council and replace them with those that are more fitted to the Council's business needs and to make savings) and the process undertaken. While no outcome is certain, the Council has a strong case that the changes were necessary and that the proper process was undertaken to make those changes, accordingly any application is unlikely to succeed.

Human Resources implications and risks:

The Council's proposals (irrespective of whether a Collective Agreement is signed or not) have fundamental implications for all corporate and C/VC school employees (except employees employed on School Teachers Pay & Conditions). The Council's proposals would change individual employee's contracts of employment. In accordance with employment law requirements, the Council has carried out comprehensive consultation with employees and their trade union representatives on the proposed changes with a view to achieving a Collective Agreement on the implementation of those changes. Whilst the Council's proposals inevitably mean that some staff will experience a reduction in pay, the Council has endeavoured to minimise and mitigate those impacts in order to finalise a set of proposals which, in the circumstances, are as reasonable and balanced as possible. This can be seen by the number and range of initial proposals that have been revised (subject to Collective Agreement) through the consultation process. It should be noted that the Council's Final (Collective Agreement) Proposals are not as severe as other Council's have recently implemented, in particular those that have been implemented by a neighbouring authority. The fact that the trade unions have balloted their members on a potential Collective Agreement on the basis that the Final (Collective Agreement) proposals represent the best that may be achieved through negotiation with the Council, is a measure of the reasonableness and balance of those proposals. The signing of a Collective Agreement represents the most attractive and least destabilising way forward to implement the necessary changes for both the Council and for employees as a whole.

However, if a Collective Agreement is not signed, then the Council will review the revised proposals that were subject to a Collective Agreement to determine if any of those revisions should be withdrawn (and hence revert to the Council's initial proposal), further revised or retained. To implement the T&C changes under this scenario, the Council will endeavour to encourage employees to voluntarily accept the changes to their contracts of employment. However, staff who do not do so will be issued with notices of dismissal and simultaneous offer of re-engagement on the revised T&Cs in line with normal employment law processes.

Equalities implications and risks:

A second equalities analysis was carried out on the post-consultation proposals and is detailed at Appendix 4. The main conclusions are:

- No one group of people with a protected characteristic is significantly adversely affected as a result of the Council's proposals
- The proposals will have a positive impact on the Gender Pay Gap (Note: the proposals move us to a position slightly better than the national average)

BACKGROUND PAPERS

None



Havering
LONDON BOROUGH