

Notice of Meeting

Personnel Committee

**Wednesday 14th December 2011 at
9.00 am in Room F3**

Date of despatch of Agenda: Monday, 5 December 2011

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Moira Fraser / Denise Anns on (01635) 519045 / 519486

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Further information and Minutes are also available on the Council's website at www.westberks.gov.uk



To: Councillors Adrian Edwards, Tony Linden, Mollie Lock (Vice-Chairman),
Andrew Rowles and Quentin Webb (Chairman)

Substitutes: Councillors David Allen, Peter Argyle, Jeff Beck and Jeff Brooks

Agenda

Part I

Page No.

1. **Apologies for Absence**
To receive apologies for inability to attend the meeting (if any).
2. **Minutes** 1 - 6
To approve as a correct record the Minutes of the meeting of the Committee held on 20 September 2011.
3. **Declarations of Interest**
To receive any declarations of interest from Members.
4. **Draft Pay Policy Statement** Verbal Report

Purpose: To update the Committee on the proposed plans to comply with Section 40 of the Localism Act, including revised TOR for the Committee.
5. **Recognising Continuous Service for Employees Transferring from Academies (PC2385)** 7 - 16
Purpose: To outline the Council's policy on recognition of service in academies for employment purposes.
6. **Employing Apprentices in the Council (PC2362)** 17 - 28
Purpose: To seek agreement for a measure to promote the employment of 16-18 year old apprentices in the Council.
7. **H&S Audit Procedure**
8. **Date of Next Meeting**
Meeting required in week commencing 19 March 2012.

Andy Day
Head of Policy and Communication

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Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

PERSONNEL COMMITTEE

**MINUTES OF THE MEETING HELD ON
TUESDAY, 20 SEPTEMBER 2011**

Councillors Present: Adrian Edwards, Tony Linden, Mollie Lock (Vice-Chairman), Andrew Rowles and Quentin Webb (Chairman)

Also Present: Robert O' Reilly (Head of HR), Moira Fraser (Democratic Services Manager)

Apologies for inability to attend the meeting: None

Councillor(s) Absent: None

PART I

8. Minutes

The Minutes of the meeting held on 03 June 2011 were approved as a true and correct record and signed by the Chairman.

9. Declarations of Interest

Councillors Quentin Webb, Tony Linden and Andrew Rowles declared an interest in Agenda Item 4, but reported that, as their interest was personal and not prejudicial, they determined to remain to take part in the debate and vote on the matter.

Councillor Webb also confirmed that when this item had been discussed at previous Management Board meetings the members of the Personnel Committee that were present had left the meeting and had not taken part in any of the discussions.

10. The Redundancy Multiplier used under the Discretionary Compensation Regulations (DCR) 2006

(Councillors Webb, Linden and Rowles declared a personal interest in Agenda item 4 by virtue of the fact that they were members of the Local Government Pension Scheme. However as they could not be made redundant as described in this policy their interest was personal and not prejudicial. They were therefore permitted to take part in the debate and vote on the matter).

The Committee considered a report (Agenda Item 4) concerning a proposed reduction in the multiplier used to calculate redundancy payments in light of lessons learnt from the reduction in the staffing establishment during 2010/11.

Robert O' Reilly explained to those present what the redundancy multiplier was and also the reasons as to why it had been set at a factor of three when previously discussed by the Personnel Committee in March 2007. Mr O'Reilly noted that in considering lessons learnt from the redundancy exercise in 2010/11 the multiplier had emerged as an issue of concern due to the high cost of the exercise.

Members had therefore asked HR to undertake a survey of other local authorities to establish the level of multiplier they applied to redundancy payments. A survey had also been undertaken by the Local Government Employers. The information collected suggested that the average multiplier applied was 1.86 and Members had therefore asked Officers to revise the existing policy regarding the multiplier.

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Five options for the future use of the redundancy multiplier were therefore put forward namely:

- Option A – reduce the multiplier to one for all employees
- Option B – reduce the multiplier to one and a half for all employees
- Option C – to reduce the multiplier to two for all employees
- Option D – to retain the multiplier of three for all employees
- Option E – to reduce the multiplier to two for all employees aged under 55 at the age of dismissal by reason of redundancy and to reduce the multiplier to one and a half for employees aged 55 and over at the date of dismissal for redundancy.

Mr O' Reilly explained that Option E had been put forward as the recommended option on the basis that employees aged 55 and over at the date of dismissal for redundancy would receive their pensions prematurely (if they were in the Local Government Pension Scheme) and the costs of early payment of accrued pension rights would have to be met by the employer. Legal opinion sought by the Council suggested that the differential multiplier at age 55 would not be contrary to age discrimination laws but legal challenge could not be ruled out.

In accordance with paragraph 7.6.2 (Motions which may be moved without notice) and 7.12.4 (Speaking) Members voted to suspend standing orders in order to allow Rosemary Culmer, Michelle Gordon and Ian Haggett to address the committee.

Prior to Rosemary Culmer presenting the views of Unison she read a statement from the ATL (Association of Teachers and Lecturers). The ATL was opposed to the proposal in relation to the Redundancy Multiplier. Their view was that the Council had not sought sufficient legal advice and if the proposal was to proceed it could leave the Council vulnerable to age discrimination challenge. ATL recommended that the Council seek legal advice from more than one source in order to clarify the situation. Their preferred option was C as this would still save the Council money while avoiding any age discrimination issues which could potentially render the Council liable for additional legal fees.

Rosemary Culmer (Staffside Co-ordinator/UNISON Branch Secretary) and Ian Haggett (Unison's Branch Pensions Champion) noted that they had been given the opportunity to address Management Board at the meeting on the 08 September 2011. Following that meeting the recommended multiplier for employees aged 55 and over at the date of dismissal for redundancy had been increased from one to one and a half. Unison was however of the opinion that their original comments were still valid.

The Union's primary objections were:

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that the sampling used to establish the average multiplier was inadequate;

the Equalities Impact Assessment attached to the report was inadequate and potentially unlawful;

the Council had failed to provide the Unions with consistent staff data for them to enable a proper analysis of the effects of the proposal by gender and age. The staff side were also concerned about the unacceptable delay in receiving the information;

there was an inaccurate assumption in the report that there was always a 'strain on fund' cost;

Unison's initial legal advice suggested that, in terms of the equalities issues, there was gross over simplification of the situation and therefore the likelihood of legal challenge under equalities legislation should not be dismissed;

the differential multiplier proposed negated the intentions of Parliament to provide a higher rate of compensation for older staff;

the assertion that there was always a large jump in exit costs for employees aged 55 and over was wrong as this included an assumption that all those in this age bracket had access to a pension;

the proposal was not comparable with neighbouring authorities with whom the Council would be competing for staff;

the staff side had been given inadequate time to consult with staff and to seek legal advice.

The Unions recognised the financial difficulties faced by the Council and had always worked with the Council to assist with organisational change. They felt that this proposal was however not acceptable. The Unions had had little time available to them to consult staff on the report but had had a good response which demonstrated how important this issue was to staff. Staff had been consulted via email due to the time constraints which meant that many employees in the care homes, day centres and schools for example could not be contacted for their opinion.

Of the responses submitted (140 responses from both union and non-union members in three days) there was no support for Options A and B, only 1% of respondents were in favour of Option E and 2% were in favour of an additional option of a multiplier of 2.5. Mrs Culmer explained that although 63% of respondents were in favour of Option D, 50% of these respondents would accept Option C and 34% of respondents were in favour of Option C. In other words 84% of the respondents would find Option C (reduce the multiplier to two for all employees) acceptable as it did not include an age related differential.

Mrs Culmer noted that Corporate Board had recommended Option C to Members and they would not have done so if it was not affordable. Using the examples cited in the report the additional costs of adopting Option C would be relatively small and would cost the Council less than a single legal challenge.

Robert O' Reilly explained that Management Board had considered the option of reducing the multiplier for those employees aged 55 and over at the date of dismissal for

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redundancy from three to one but had concluded that this was too severe and had therefore proposed recommending a multiplier of one and a half to the Personnel Committee.

The staff side felt that there were important moral and ethical issues raised by the proposed change and they believed that it was essential that high ethical and moral standards were maintained by public sector organisations.

Unison asked the Personnel Committee to:

give serious consideration to the views of staff;

give proper consideration to the moral and ethical issues raised;

note the strength of feeling of the Union members and the potential for this proposal to lower the already lowered state of staff moral at the council;

give consideration to the expensive and damaging effect of a legal challenge for the sake of what was likely to be a small saving.

Michelle Gordon (GMB Organiser) in addressing the Committee noted that GMB supported all the comments made by Mrs Culmer and Mr Haggett. Like Unison they felt that the proposals disadvantaged older members of staff and low paid workers. Ms Gordon reported that unemployment was high which would exacerbate the predicament for older staff seeking re-employment. The receipt of their pension would also impact negatively on the level of benefits they were entitled to. Councillor Adrian Edwards disputed that unemployment was high in West Berkshire.

Ms Gordon also stated that the proposal might also impact negatively on staff retention. There would be less of an incentive to keep employees aged 55 and over on and there would be a compensatory loss in experience and knowledge when these employees were made redundant

Ms Gordon noted GMB's issues with the proposal were primarily centred around the potential differential based on age and the impact that this would have on those employees that were not members of the Local Government Pension Scheme (LGPS).

Approval of Option E might raise issues around gender discrimination as a large percentage of the Council's female employees had opted out of the LGPS. In addition this group of employees often had less contributory years as they might have taken time off work to raise their families. The unions had not been supplied with the data on contributory years that they had requested as yet. However the initial legal advice sought by the unions indicated that the proposal might well be deemed to be discriminatory on both age and gender grounds.

In response to a query from Members the Head of HR confirmed that 25% of the Council's workforce was aged 55 and over and of those around half (92) were not in the LGPS. He noted that 77% of the 92 were female and that this information needed to be considered in the light of the fact that 75% of the Council's workforce was female. The Unions noted that from the information provided by the Council they had ascertained that 73 employees aged over 55 were not in the LGPS and that 84% of those employees were female. There was therefore some uncertainty about the accuracy of the information supplied.

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Members noted that employees had the choice as to whether or not they would like to join the LGPS and it was therefore their choice if they opted out. Rosemary Culmer explained that in many cases employees opted out of the LGPS because they could not afford the payments and these employees would therefore be penalised twice. Michelle Gordon explained that advice from the union's solicitors indicated that in light of this the policy might well be deemed to be a contravention of the Council's Equality Duty.

The unions' solicitors had advised that the policy as proposed could be deemed to be discriminatory in that it disproportionately affected women who were often lower paid and therefore were forced to opt out of the LGPS and who often had lower numbers of contributory years in the LGPS as they took time off to raise families.

Robert O' Reilly noted that those employees that opted out received a higher net pay (the equivalent of £1k per annum for those on a salary of £25k). The issue of the effect on those employees that had opted out of the LGPS and were aged 55 and over formed the crux of the legal dilemma. He noted that a challenge to the policy could only be brought in the event that an actual case arose and the policy could not be challenged in the abstract. Michelle Gordon reminded Members that where employees opted out of the LGPS there was a benefit to the Council in that they were then not liable for the employer contributions.

The Head of HR drew Members' attention to the Council's legal advice as set out in the report. He noted that the Monitoring Officer had stated that if Option E was adopted there might be a risk of legal challenge but the Monitoring Officer was of the opinion that the Council's position was defensible.

In relation to schools Robert O' Reilly explained that the policy would only be applicable to Local Education Authority maintained schools. The Council could recommend the policy to aided and foundation schools and academies but they would not have to follow them. Individual school's governing bodies also had the authority to increase severance payments up 104 weeks pay should they wish to do so but they would have to fund the increase themselves.

Councillor Mollie Lock felt that, given the budget situation faced by many schools, they were unlikely to make up the budget as suggested.

Members thanked the Trade Unions for their contribution to the meeting and the Trade Union representatives thanked members for the opportunity to allow them to address the Committee. The unions reiterated their wish to work constructively with the Council as they had done in the past.

Standing orders were resumed.

Councillor Adrian Edwards queried the difference in cost to the Council should Option C be pursued instead of Option E. Robert O' Reilly explained that this was difficult to quantify as the number of future redundancies were not known and consequently Officers would not know how many of the employees would be aged over and under 55 years of age. He explained that the maximum difference would amount to 15 weeks per individual.

The Head of HR explained that he had discussed the issue of legal challenge with the Monitoring Officer that morning and he was still of the opinion that the proposal was lawful although there was a risk of legal challenge.

Councillor Tony Linden stated that this was a difficult decision. The Council's economic situation had to be taken into consideration hence the proposal to adopt Option E.

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However he was concerned about legal challenge and the potential costs that could be incurred should the proposal be implemented.

Councillor Quentin Webb stressed the need to arrive at a conclusion that was seen as equitable to both the employer and employees. Councillor Adrian Edwards said that the policy needed to be fair. He noted that an employee who was aged 55 years and 1 day and an employee who was 54 and 364 days would receive different payouts even if they had the worked at the Council for the same number of years. The fact that they might or might not be in receipt of a pension from the LGPS was immaterial in his opinion. He therefore supported Option C. In Councillor Edwards' opinion Option E did not feel fair. Councillor Mollie Lock supported Councillor Edwards' comments and added that she could not see the merit in offering a multiplier of one and a half when the average applied by other local authorities was 1.86. Councillor Andrew Rowles felt that the application of a differential could create a two tier situation in the Council which he would not wish to see created. Councillor Tony Linden was concerned that Option E might act as a disincentive for employees to join the pension scheme which was in his opinion a retrograde step.

The Personnel Committee therefore concluded that Option C should be adopted.

RESOLVED that:

1. Option C be adopted i.e. in future employees who were made redundant would have a multiplier of two applied to the statutory rate (using actual weekly pay).
2. Employees who were aged 55 or over would be entitled to an immediate unreduced pension if they were members of the Local Government Pension Scheme.
3. employees who were in the Local Government Pension Scheme be permitted to ask the Council to purchase for them additional pension to the actuarial value of the 'extra' redundancy compensation (in excess of the statutory amount due) instead of paying it to them as a lump sum.
4. the above revised policy be implemented with effect from 20th October 2011.

11. Date of Next Meeting

The Committee agreed to hold the next meeting on 24 October 2011 at 10.00am.

(The meeting commenced at 10.00 am and closed at 11.10 am)

CHAIRMAN

Date of Signature

Title of Report:	Recognising Continuous Service for Employees Transferring From Academies
Report to be considered by:	Personnel Committee
Date of Meeting:	14 December 2011
Forward Plan Ref:	PC2385

Purpose of Report: To outline the Council's policy on recognition of service in academies for employment purposes.

Recommended Action: To confirm the proposed approach not to recognise continuous service with academies for occupational benefits of sick pay, annual leave and maternity.

Reason for decision to be taken: Local authorities have discretion over whether to recognise service with academies for occupational benefits. The Council needs a clear statement on whether it will use this discretion or not so that prospective employees are aware of the implications.

Other options considered: To recognise academy service. Rejected because of potential complications, especially where academies use their powers to diverge from national conditions of service.

Key background documentation:

- Local Government Employers website advice
- Green Book (National Joint Council conditions of service for local government services)
- School Teachers' Pay and Conditions Document
- Burgundy Book (Conditions of Service for School Teachers in England and Wales)

The proposals will also help achieve the following Council Plan Theme:

CPT14 - Effective People

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:
ensuring clarity for current and prospective employees about their terms and conditions of service.

Portfolio Member Details	
Name & Telephone No.:	Councillor Anthony Stansfeld - Tel (01488) 658238
E-mail Address:	astansfeld@westberks.gov.uk
Date Portfolio Member agreed report:	27 October 2011

Contact Officer Details	
Name:	Jane Milone
Job Title:	HR Manager - Policy, Information and Development
Tel. No.:	01635 519238
E-mail Address:	jmilone@westberks.gov.uk

Implications

Policy:	This decision introduces a new policy.
Financial:	n/a
Personnel:	This decision affects new staff appointed to the Council from academy schools.
Legal/Procurement:	n/a
Property:	n/a
Risk Management:	The risks are that employees from academy schools will be put off applying for posts in maintained schools. This is mitigated by the fact that the proposed policy is in line with that adopted by neighbouring authorities.
Equalities Impact Assessment:	This policy will have no differential impact on employees with protected characteristics as it applies equally to all applicants.
Corporate Board's Recommendation:	Corporate Board agreed with the proposed approach not to recognise continuous service with academies for occupational benefits of sick pay, annual leave and maternity.

Executive Summary

1. Introduction

- 1.1 The Government's programme of encouraging maintained schools to become academies means that schools in West Berkshire are increasingly likely to appoint staff (teachers and support employees) who come to them directly from academy schools.
- 1.2 Academy employment is not service in local government for the purpose of entitlements to occupational schemes for sick pay, annual leave and maternity pay and leave. However, the Council could choose to recognise academy service for this purpose when new employees transfer directly from academies.
- 1.3 The Council, therefore, needs to have a clear policy on whether or not it will recognise employment service with academies for occupational scheme benefits so that prospective employees can be fully informed about the implications of transferring into a West Berkshire Council school, or to direct employment with the Council.

2. Proposals

- 2.1 It is proposed that the Council does not recognise academy service for the purpose of calculating entitlements to occupational scheme benefits.

3. Conclusion

- 3.1 This policy is a robust approach which will enable us to respond not only now, but in the future when academies exercise their right to negotiate their own terms and conditions of service for staff. It will ensure that we are in line with the policy in other authorities in the South East region.

Executive Report

1. Introduction

- 1.1 The Government's programme of encouraging maintained schools to become academies means that schools in West Berkshire are increasingly likely to appoint staff (teachers and support employees) who come to them directly from academy schools.
- 1.2 Some terms and conditions entitlements for local authority employees are dependent on their continuous local authority service. Under national agreements, employees who transfer into the service of one local authority from another local authority (or between schools in the local authority) have their continuous service preserved for entitlements to occupational sick pay, annual leave and maternity (and adoption) pay and leave.
- 1.3 Academies are not bound by national conditions of service (see 2.2 below), and are not local authority schools. This means that local authorities are not bound to recognise continuous service with academies for the purpose of calculating entitlement to occupational scheme benefits. However, the Council does have the discretion to recognise such service if it chooses to do so.
- 1.4 The Council, therefore, needs to have a clear policy on whether or not it will recognise employment service with academies for occupational scheme benefits so that prospective employees can be fully informed about the implications of transferring into a West Berkshire Council school, or to direct employment with the Council.
- 1.5 Throughout this report, employment in a West Berkshire school should be taken to refer to community schools as well as foundation and aided schools which are maintained by the authority.

2. Staff transferring to academies

- 2.1 Staff who transfer to the employment of an academy as a result of a change in the school's status during their employment have protected employment rights under TUPE. Therefore, in the immediate future when schools convert to academy status, teachers and support staff will retain their current contractual rights.
- 2.2 This means that the statutory School Teachers' Pay and Conditions Document (STPCD) will be incorporated into their contracts, as will the Conditions of Service for School Teachers in England and Wales ('Burgundy Book') and any local agreements between the local authority and the recognised teacher unions. Similarly, whatever arrangements currently apply to school support staff - whether this is based on the national agreement negotiated within the National Joint Council for local government services ('Green Book') in respect of staff in community schools, or other local arrangements which apply to staff in foundation schools and voluntary aided schools - will transfer. For newly-appointed staff, however, the academy will be able to determine new pay and conditions arrangements.
- 2.3 An employee who transfers under TUPE to an academy will have continuity of service preserved for redundancy entitlements. In addition, an employee who

voluntarily goes to work for an academy (and not under TUPE) will have that period of employment counted as continuous service within local government under the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 ('The Modification Order').

3. Staff transferring from academies into West Berkshire employment

- 3.1 Paragraphs 3.2 to 3.5 below refer to the statutory position, over which the Council has no discretion. Paragraphs 3.6 to 3.12 set out the proposed approach to matters over which the Council may exercise its discretion.
- 3.2 Some statutory employment rights and entitlements depend on continuous service with the current employer. The right not to be unfairly dismissed, for example, comes into effect after one year of continuous service. Some entitlements to statutory maternity/adoption pay and leave depend on at least 26 weeks' service.
- 3.3 All employees with at least two years' continuous service with their current employer have a statutory right to a redundancy payment if their employment ends by reason of redundancy. In the case of someone employed by West Berkshire Council, this means two years continuous employment with WBC; previous continuous service with another local authority does not count for this right.
- 3.4 However, when it comes to service for the purpose of calculating the actual redundancy payment due, all continuous local authority service is counted, as well as any service with an organisation covered by the Modification Order. Academies are covered by the Modification Order. In effect, any previous academy continuous service will be counted, but only if the redundant employee has two or more years' continuous service with WBC at the point of dismissal.
- 3.5 It follows that an employee joining a West Berkshire school (or the directly employed staff of the Council) directly from an academy will have continuous service calculated as follows for statutory entitlements;

Entitlement	Continuous service date
Not to be unfairly dismissed	After 1 year from date of this appointment to WBC
Right to a redundancy payment	After 2 years from date of this appointment to WBC
Continuous service for purpose of calculating a redundancy payment	From date of continuous employment with any school or other authority covered by Modification Order (including academies)
Statutory entitlement to maternity pay and leave	Based on continuous service from date of this appointment to WBC

- 3.6 Entitlement to occupational scheme benefits, such as occupational sick pay, occupational maternity/adoption pay and leave, and enhanced annual leave, depends (in most cases) on continuous local authority service. The council has discretion over whether it chooses to include service with academies.
- 3.7 **It is proposed that the Council does not recognise service with academies for the purpose of calculating entitlements to occupational scheme benefits.** In the short term, especially where many staff will be returning to local authority

employment having been TUPE transferred to academies, this may seem unfair. They will probably still be on national conditions of service and did not choose to transfer out of local authority employment.

- 3.8 However, any policy has to be fit for the future. Academies will start to negotiate their own terms and conditions, which may diverge significantly from national conditions, and it will become more difficult to justify preserving service in these circumstances. Employees will choose to move between employment at academies and local authority maintained schools and they will have to accept that continuity of service will be broken in these circumstances.
- 3.9 Other local education authorities in the South East region have opted not to recognise academy service for occupational scheme purposes and we would, therefore, be out of line if we did so.
- 3.10 The impact of this proposal would be as follows;

Entitlement	Teachers	Support staff
Occupational sick pay entitlement	Based on cumulative service as a teacher in a LA maintained school	<i>Based on continuous service from date of this appointment to WBC</i>
Annual leave entitlement	n/a	<i>Based on continuous service from date of this appointment to WBC</i>
Occupational maternity leave and pay	<i>Based on continuous service from date of this appointment to WBC</i>	<i>Based on continuous service from date of this appointment to WBC</i>

- 3.11 Where an employee transfers, without a break, from another local authority which has recognised previous continuous service with an academy for occupational benefits, the date of continuous service will be the date on which that authority deemed continuous service to start.
- 3.12 All contracts of employment for schools would include the following paragraphs to explain how continuous service is calculated;
- (1) “Service with academies will not be counted for the purpose of continuous service for employment rights, or entitlement to WBC occupational benefits (such as sick pay, annual leave and maternity benefits) which are dependent on continuous local government service.
 - (2) Employees who transfer to WBC from academies will have their continuous service date for occupational entitlements calculated as the date on which their continuous service with West Berkshire Council began.
 - (3) Continuous service for the purpose of calculating statutory redundancy payments will include any period of continuous service with an academy (under the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order).”

4. Conclusion

- 4.1 Adopting the approach outlined above will ensure that prospective employees and school managers are clear about the impact of transferring from academies into the employment of the Council.

Appendices

Appendix A – Equality Impact Assessment – Stage One

Consultees

Local Stakeholders: Not consulted

Officers Consulted: Caroline Corcoran, Ian Pearson, Andy Tubbs, Corporate Board

Trade Union: Not consulted

APPENDIX A

Equality Impact Assessment – Stage One

Name of item being assessed:	Corporate Board Report - Recognising continuous service for employees transferring from academies
Version and release date of item (if applicable):	September 2011
Owner of item being assessed:	Human Resources
Name of assessor:	Jane Milone
Date of assessment:	11 th August 2011

1. What are the main aims of the item?
To clarify that the Council will not use discretion to recognise employment service in academies for the purpose of calculating entitlement to occupational scheme benefits

2. Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender, Race, Religion or Belief and Sexual Orientation.)
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Group Affected	What might be the effect?	Information to support this.

Further comments relating to the item:
This policy will apply to all new employees transferring from academies equally. There will be no differential impact on any group with a protected characteristic.

3. Result (please tick by double-clicking on relevant box and click on 'checked')
<input type="checkbox"/> High Relevance - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/> Medium Relevance - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/> Low Relevance - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/> No Relevance - This does not need to undergo a Stage 2 Equality Impact Assessment

For items requiring a Stage 2 equality impact assessment, begin the planning of this now, referring to the equality impact assessment guidance and Stage 2 template.

4. Identify next steps as appropriate:	
Stage Two required	
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	
Stage Two not required:	

Name:

Date:

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Title of Report:	Employing Apprentices in the Council
Report to be considered by:	Personnel
Date of Meeting:	14 th December 2011
Forward Plan Ref:	

Purpose of Report: To seek agreement for a measures to promote the employment of 16-18 year old apprentices in the Council

Recommended Action: To approve the use of the National Minimum Wage to pay apprentices aged 16-18
 To presume in favour of approval of fixed-term posts created by services, from either temporary vacancies or savings/income, to employ such apprentices
 To set a target for Heads of Service to engage a minimum of 10 apprentices across all services

Reason for decision to be taken: An increase in apprentice numbers will support the Council's targets with respect to NEETs, and take advantage of the Government's fully funded training offer.

Other options considered: Budget pressure to fund a corporate scheme, including salaries for a specified number of posts and administrative support.

Key background documentation: National Apprentice Service website
 CB report September 2009 on Apprentices

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):	
<input type="checkbox"/>	CPP1 – Support our communities through the economic downturn – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
<input type="checkbox"/>	CPP2 – Raise levels of educational achievement – improving school performance levels
<input type="checkbox"/>	CPP3 – Reduce crime and the fear of crime
The proposals will also help achieve the following Council Plan Theme(s):	
<input type="checkbox"/>	CPT1 - Better Roads and Transport
<input type="checkbox"/>	CPT2 - Thriving Town Centres
<input type="checkbox"/>	CPT3 - Affordable Housing
<input type="checkbox"/>	CPT4 - High Quality Planning
<input type="checkbox"/>	CPT5 - Cleaner and Greener
<input type="checkbox"/>	CPT6 - Vibrant Villages
<input type="checkbox"/>	CPT7 - Safer and Stronger Communities
<input type="checkbox"/>	CPT8 - A Healthier Life
<input type="checkbox"/>	CPT9 - Successful Schools and Learning
<input type="checkbox"/>	CPT10 - Promoting Independence

DRAFT DOCUMENT

- CPT11 - Protecting Vulnerable People
- CPT12 - Including Everyone
- CPT13 - Value for Money
- CPT14 - Effective People
- CPT15 - Putting Customers First
- CPT16 - Excellent Performance Management

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:
improving the opportunities for young people to gain valuable paid work experience with training within the Council

Portfolio Member Details	
Name & Telephone No.:	Councillor Anthony Stansfeld - Tel (01488) 658238
E-mail Address:	astansfeld@westberks.gov.uk
Date Portfolio Member agreed report:	14/11/11

Contact Officer Details	
Name:	Jane Milone
Job Title:	HR Manager - Policy, Information and Development
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E-mail Address:	jmilone@westberks.gov.uk

Implications

Policy: The report seeks a change to the Council's pay policy. The pay structure in WBC (as set out in the 1999 Terms and Conditions document) is based on the National Joint Council pay spine. The minimum point used in the Council is SCP4. In order to make the scheme to employ apprentices viable, we need to be able to pay them on one of the National Minimum Wage rates. This would reflect the lack of experience and skill of 16-18 year olds who are entering the workforce for probably the first time.

Financial: The proposals will have a neutral financial impact. Financial approval would continue to be a requirement for any post established to employ apprentices. The cost of training is currently funded at the rate of 100% by the Government. If there are any financial implications contained within this report this section **must** be signed off by a West Berkshire Finance Manager. Please note that the report cannot be accepted by Policy and Communication unless this action has been undertaken.

Personnel: Any increase in the employment of young people in training posts will increase the support needed from HR to line managers. HR will produce a tool kit for employment and induction and liaise closely with training providers.

Legal/Procurement: n/a

Property: n/a

Risk Management: n/a

Footer to be completed by Policy & Communication

West Berkshire Council

name of decision body

date of meeting

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Equalities Impact Assessment:

see appendix A

Where a decision is required, Policy and Communication are not able to accept your report without an EIA Stage 1 being completed (Appendix A to this report). Further information and an EIA Stage 2 form can be found at: www.westberks.gov.uk/eia. For advice please contact Principal Policy Officer (Equality & Diversity) on Ext. 2441.

Corporate Board's Recommendation:

Corporate Board supported the proposals and requested that special emphasis be placed on recruiting apprentices among our own care leavers
To be completed after the Corporate Board meeting.

NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 This report considers options for increasing the number of 16-18 year old apprentices employed by the Council.
- 1.2 Key issues for consideration are;
 - (1) The ability of the Council to pay such apprentices on the National Minimum Wage
 - (2) The ability of Heads of Service to create fixed-term apprentice posts
- 1.3 The report rejects the option of seeking a budget pressure to create a Council-wide scheme, including funding for new posts and an administrative resource to run the scheme.

2. Proposals

- 2.1 It is proposed that HR seek agreement with the trade unions to payment of the National Minimum Wage (NMW) for 16-18 year old apprentices using a model framework similar to that used currently for schools.
- 2.2 It is proposed that there is presumed approval for apprentice posts (subject to confirmation by Accountancy of funding), and it will only be refused if there are serious financial or other concerns.
- 2.3 There will be two main ways in which 16-18 apprentice posts will be created;
 - (1) Where a post becomes vacant through resignation or retirement, or part of a post becomes vacant as a result of the employee voluntarily reducing their hours (e.g. post maternity leave). The Head of Service could seek to convert the post, on a temporary basis for one year. Depending on the staffing budget available, this could create one or two apprentice posts at the NMW.
 - (2) Where a Head of Service can demonstrate non-staff savings or income generation which could be used to fund an apprentice post. The Head of Service could seek to establish a new post for a year at the NMW.
- 2.4 In neither case would the post be a permanent one. The approval would be for the appointment of an apprentice on a one year fixed term contract. At the end of the year, the vacant post would revert to its original status. Apprentices would have the opportunity to apply for the permanent post alongside other internal applicants.
- 2.5 Portfolio holders will be expected to monitor the implementation of a Council target to employ at least 10 apprentices per year.

3. Conclusion

- 3.1 Approval of a limited scheme to encourage the employment of 16-18 year olds in fixed-term jobs with training would support the Council's wider objectives which

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include supporting the community through difficult economic times and improving employment prospects for care leavers..

Executive Report

1. Introduction

- 1.1 In September 2009, Corporate Board and Management Board approved proposals for the Council to expand its opportunities for apprentices. These were;
- (1) Identify all eligible existing employees who would be eligible and encourage them to engage in an apprenticeship.
 - (2) Introduce a policy of considering all vacancies occurring up to a particular grade for 'trainees', with a generic trainee job description and grade.
 - (3) Publicise apprenticeships across the Council by providing information, links and guidance for managers and employees
 - (4) Work with West Berkshire Training Consortium (WBTC) on a joint bid for Future Jobs Fund money and, if successful, put together a plan to establish at least 30 new fixed term jobs across the Council for apprentices.
 - (5) Implement the draft Work Experience Policy, and liaise with partner agencies to ensure that we include E2E people in the programme.
- 1.2 These proposals have been implemented and the Future Jobs Fund scheme was a great success with 27 young people (aged 18-24) employed for at least six months with training provided by WBTC. The FJF scheme was withdrawn by the Government in summer 2010.
- 1.3 However, there is still more that the Council could do to expand opportunities for the employment of young people in jobs with training, to help to achieve our own targets for reducing those not in employment, education of training (NEET), taking advantage of current Government funding available for training within the apprenticeship frameworks.
- 1.4 This paper sets out proposals for creating new jobs for apprentices aged between 16 and 18. The key barriers that exist currently are;
- (1) Union opposition to payment of any employee at a rate below the minimum of the WBC pay scales, which is seen as undermining terms and conditions and potentially removing graded posts from the establishment.
 - (2) Political resistance to any increase in the staffing establishment of the Council
 - (3) The current tight financial climate within the Council
- 1.5 Unison and GMB were consulted on the proposals following Corporate Board approval. Unison's response was not positive, and so HR will need to do some work to ensure that sufficient safeguards are put into the scheme to allay their

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concerns. These concerns are summarised in the words of the Branch Secretary – “We are still very nervous that these apprentices could be expected to fulfil the role of a much higher grade and would not get the support required for an apprentice role as existing staff already have a heavy workload.”

- 1.6 Schools have begun to employ young apprentices in the last year, following the development by HR of a ‘toolkit’ of job description, person specification and pay rates.

2. Schools

- 2.1 Schools manage their own budgets and are able to determine their own staffing establishment. However, they are constrained by the School Staffing Regulations in the rates of pay that they can use.
- 2.2 In the last few months several schools have expressed interest in employing young apprentices using the opportunity of free (Government funded) training for those aged 16-18. However, the minimum pay rate on the Council’s pay scales was so far above the National Minimum Wage (NMW) for apprentices that it made it difficult for them to create new trainee jobs.
- 2.3 In September 2011, Unison and GMB agreed that schools could use the NMW rates to pay apprentices in schools, provided they were working to a restricted set of duties which were appropriate to the role and reflected its nature and the lack of experience of the apprentice.
- 2.4 The resultant model job description (drawn up by HR) has been adopted by schools and has proved extremely popular, leading to opportunities for young people to gain experience in the classroom, in nursery and early years settings, and in the school office.

3. Funding training costs

- 3.1 Apprenticeship funding is available from the National Apprenticeship Service. The size of the contribution varies depending on the sector and the age of the candidate, and is paid to the organisation providing the training (e.g. Newbury College or West Berkshire Training Consortium).
- 3.2 If the apprentice is aged 16–18 years old, 100 per cent of the cost of the training is available; if they are 19-24 years old, up to 50 per cent; if they are 25 years old or over there may be a contribution depending on the sector and area (for example, there is currently 100% funding for Management Apprenticeships at Level 3 for non-graduates of any age).
- 3.3 Apprenticeships normally last for up to one year, depending on the nature of the job and the skills of the individual appointed.

4. Options

- 4.1 There are two options which could achieve the aim of increasing apprenticeship opportunities within the Council for young people. Both options require the creation of new posts, for the purpose of employing apprentices on fixed-term contracts. Both require agreement to use the NMW pay rates (see appendix B) for apprentices to make them affordable. Either;

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- (1) Posts to be created individually by Heads of Service, either extra to establishment (funded from savings and/or income generation), or by temporary conversion of vacant posts which already exist on the establishment into training posts; or
- (2) Additional funding to be provided (as a budget pressure) to create a central scheme for apprentices. The funding would provide salaries for a specified number of posts and a small amount to provide for the administration of the scheme (probably in HR). Heads of Service could bid for posts in their area. This would be similar to schemes in other Councils, such as Kent.

5. Proposal

- 5.1 It is probably unrealistic to expect money to be found for a central 'pot' to provide funding for new apprentice posts. Therefore, it is proposed that option (1) above is pursued.
- 5.2 Fundamental to this proposition's success is securing agreement with the trade unions to payment of the NMW for 16-18 year old apprentices. The lower wage has been approved by the Government to reflect the fact that such employees are entering the workforce for the first time, with limited skills and experience, and that the employer will be required to have significant input into training on the job.
- 5.3 It is proposed that HR seek this agreement using a model framework similar to that used for schools. It is likely that any agreement will involve assurance about a tight set of conditions aimed at protecting the employment and pay terms of WBC employees in established posts, and ensuring that the employment of apprentices does not undermine more secure employment opportunities at the Council.
- 5.4 Also fundamental is securing political agreement to a system which will allow the creation of apprenticeship posts 'extra' to the establishment without having to argue the case from scratch each time. We achieved such agreement for FJF posts two years ago, but these were fully funded by the Government. It is proposed that there is presumed approval for such posts (subject to confirmation by Accountancy of funding), and it will only be refused if there are serious financial or other concerns.
- 5.5 There will therefore be two main ways in which 16-18 apprentice posts will be created;
 - (1) Where a post becomes vacant through resignation or retirement, or part of a post becomes vacant as a result of the employee voluntarily reducing their hours (e.g. post maternity leave). The Head of Service could seek to convert the post, on a temporary basis for one year. Depending on the staffing budget available, this could create one or two apprentice posts at the NMW.
 - (2) Where a Head of Service can demonstrate non-staff savings or income generation which could be used to fund an apprentice post. The Head of Service could seek to establish a new post for a year at the NMW.
- 5.6 In neither case would the post be a permanent one. The approval would be for the appointment of an apprentice on a one year fixed term contract. At the end of the

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year, the vacant post would revert to its original status. Apprentices would have the opportunity to apply for the permanent post alongside other internal applicants.

- 5.7 In order to ensure that these proposals can move forward, it is proposed that portfolio holders have the responsibility for monitoring the implementation of a Council-wide target to employ at least 10 apprentices each year.

6. Other considerations

- 6.1 Close liaison with apprenticeship training providers should be established by HR. These are likely to be West Berkshire Training Consortium and Newbury College, though others may also be involved.
- 6.2 Consideration should be given to the recruitment of apprentices. This scheme will be restricted to 16-18 year olds which makes it especially suitable for looked after children leaving the care of the authority. Any recruitment strategy should prioritise this pool of young people. Other agencies, such as West Berkshire Training Consortium and Jobcentre Plus, and the National Apprenticeship Service should be used to advertise and/or recruit to vacancies.
- 6.3 A tool kit will should be developed by HR with model job descriptions and person specifications. A specific induction package should also be developed for line managers to ensure that the young people, who may have no previous work experience, are supported to integrate quickly and effectively into the workforce.

Appendices

Appendix A – Equality Impact Assessment – Stage 1
Appendix B – National Minimum Wage @ October 2011

Consultees

Local Stakeholders:

Officers Consulted: Corporate Board

Trade Union: Unison and GM have been consulted.

Equality Impact Assessment – Stage One

Name of item being assessed:	Proposal to create opportunities for employment of apprentices aged 16-18 years
Version and release date of item (if applicable):	November 2011
Owner of item being assessed:	Jane Milone
Name of assessor:	Jane Milone
Date of assessment:	31 st October 2011

1. What are the main aims of the item?
To encourage the employment of young apprentices within the Council, by; <ul style="list-style-type: none"> • allowing the Council to pay apprentices below the current minimum of it pay scales, using the National Minimum Wage for apprentices aged 16-18. • allowing apprentice posts to be temporarily created from vacant posts, or from savings/income where approved by Accountancy

2. Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender, Race, Religion or Belief and Sexual Orientation.)

Group Affected	What might be the effect?	Information to support this.
Age	People over 18 will not be able to apply for the posts created under this scheme	The proposal is specifically aimed at young people aged between 16 and 18.

Further comments relating to the item:

The discrimination in favour of young people aged 16-18 can be objectively justified because it seeks to address a local and national target to reduce the number of young people not in education, employment or training (NEET) by offering employment with training to this group. The focus on this age group is directly related to the government funding available for apprenticeship training – it is 100% funded for this age group.

3. Result (please tick by double-clicking on relevant box and click on ‘checked’)

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<input type="checkbox"/>	High Relevance - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/>	Medium Relevance - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/>	Low Relevance - This needs to undergo a Stage 2 Equality Impact Assessment
x	No Relevance - This does not need to undergo a Stage 2 Equality Impact Assessment

For items requiring a Stage 2 equality impact assessment, begin the planning of this now, referring to the equality impact assessment guidance and Stage 2 template.

4. Identify next steps as appropriate:	
Stage Two required	
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	
Stage Two not required:	

Name:

Date:

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Appendix B

Salary Rates for Apprentices

NMW = National Minimum Wage

Salary Rate	fte annual salary @ 37 hours a week	hourly rate
NMW apprentice during first year*	£5,015.87	£2.60
NMW age 16	£7,099.38	£3.68
NMW age 18	£9,028.56	£4.68
NMW age 21	£11,729.41	£6.08
WBC scale point 4	£12,145.00	£6.30

*this rate may only be paid during the first year of any apprenticeship. After one year, the relevant NMW rate for the age of the individual must be paid.