

BRIEFING NOTE FOR PERSONNEL, LICENSING AND ADMINISTRATION COMMITTEE - 3 September 2007

CLG – Councils' proposals for unitary Local Government – An approach to implementation.

The document covers several areas in summary these are:

- Explanation of the Statutory Framework
- Method of Implementation - including a statement that says, "Government is clear that the current restructuring of local government is about creating new authorities - authorities with new functions and responsibilities". They take this to mean "any unitary authority established following the current invitation process will therefore be a new authority in any commonly understood meaning of the word."
- How new authorities will be represented from transition to implementation
- How contracts will be managed
- How the implementation process will be managed through Joint Implementation Teams.
- Advice on the date of transfer of functions
- How staffing issues are to be handled, including an estimate of the numbers of automatic transfers and how other groups of staff will be dealt with.
- Information on how budgets and Council Tax issues should be dealt with
- Finally the Ceremonial arrangements to ensure the preservation of the rights or privileges of citizens being amalgamated into a larger area.

The purpose of this briefing note is to focus on the Staffing elements of the consultation document. These can be principally found in Chapter 5, though there are also references in other parts of the document.

In chapter 4 it is recommended that a Joint Implementation Team (JIT) be set up to support the shadow authority or Joint Committee. It is suggested the HR Directors of each of the existing local authorities should sit on the JIT. The HR Transition Team has already been set up and commenced working on areas related to Staffing. It is expected that this team will report to the new member arrangement once it is set up.

Recommended response is:

We agree that the setting up of a JIT which includes Heads of HR will be the way to manage the staffing elements of the transfer.

The information in Chapter 5 is based on experience from the 1994 Staff Commission and advice being provided to the DCLG Staffing sub-Group by the joint PPMA and LGE HR Group. The Head of HR has been a member of the joint PPMA/LGE group from the outset representing a District viewpoint. This group is working in the protocol and other guidance identified in Chapter 8, paragraphs 168 and 169.

This Briefing Note addresses the issues in Chapter 5 in order of appearance

Staff Consultation

CLG recognises the need for proper consultation with staff and that it needs to start now. The HR Transition Team has produced a Joint Consultation Protocol and will commence joint consultation on 27 September 2007.

Recommended response is:

We support the CLG view and will work to ensure proper consultation with all staff takes place.

CLG does not believe that there is a need for a national framework for staffing issues. However, they do accept there is a need for clarity and consistency and they intend to establish key principles. They also intend there to be agreed protocols at a national level, to be negotiated between the Unions and Local Government Employers.

Recommended response is:

We support the establishment of key principles and national protocols that provide clarity and consistency for staff while allowing local flexibility.

Employment rights and TUPE

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) do not apply to the transfer of local authority functions between authorities. However, the Government has committed to apply TUPE-like terms to any transfer within the public sector. CLG intend that staff transfers will be on terms no less favourable than those that apply immediately before the transfer.

Recommended response is:

We welcome the Government's commitment to TUPE-like transfers, however, there is a need to clarify what this means, especially in the area of harmonisation of terms and conditions post transfer.

Staff Transfers

CLG is clear that they expect 80% to 90% of staff to transfer to the new authority, these being front-line staff and administrative support to front-line staff. The HR Transition Team agrees with this assessment and the Recruitment Protocol allows managers to continue to recruit to front-line posts on a permanent basis.

Recommended response is:

We support the CLGs view, subject to an updating of employment categories in line with current structures and titles.

Staff that fall into the other 10% to 20% are either senior officers or staff engaged in central or "back-office" functions. CLG's view is that it will be the responsibility of the shadow or transitional authority to define the organisational structure and then staff can be invited to apply for posts. This may not apply to the most senior posts as in the past regulations have required that these be appointed to through open competition. CLG has decided that the Chief Executive to the new authority will be appointed by open competition, but as yet they have not taken a final view on other senior posts. CLG have also not developed a final view on prior consideration, that is giving existing employees first opportunity to apply and be interviewed for vacancies in the new authority.

Recommended responses are:

If structures have not yet been defined all central and "back-office" staff should transfer to the new authority and issues should be resolved as and when structures are defined. All senior officer posts with the possible exception of Heads of Education and Social Services should be subject to open competition.

Existing employees should be given first opportunity to apply for post in the new authority, as this will minimise the need for compulsory redundancies and maximise the opportunities for promotion and change.

In the previous reorganisation Transfer Orders were put in place by the Secretary of State. CLG is recommending that the JIT should consult on and agree a transfer list for staff who will automatically transfer to the new authority.

Recommended response is:

We agree that the JIT should consult on and agree the automatic staff transfer list at the earliest opportunity and we consider there is no need for a Transfer Order in the Wiltshire case.

Redundancy Compensation

The CLG has recognised that authorities have exercised their powers of discretion under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. NB In Wiltshire there are currently 5 different arrangements, ranging from the maximum discretion of 104 weeks to nothing. The CLG is recommending that the JIT will need to examine this issue as soon as possible. It is their belief that local discretion and flexibility are valuable in this area and they do not propose to make any additional regulatory changes.

Recommended response is:

We agree that this is a matter for local discretion and should be left to the new authority to decide.

Equal Pay

CLG has determined that the new authority will take on all the employer responsibilities from the existing authorities, including equal pay responsibilities and liabilities. It will be for the new authority to decide the pay and grading structure, including taking into account any agreements that constituent authorities may have made, but not implemented. This will have a particular affect in Wiltshire, where four of the five authorities are currently in the process of agreeing new pay and grading structures. The CLG recognises that there is for the new authority to carry out a risk assessment prior to the reorganisation date and is also recommending that the new authority will need to carry out an pay & grading review.

Recommended response is:

We accept that the new authority will take on the employer responsibilities. However, it is not accepted that there is a need to make it a requirement to carry out another pay & grading review, this should be dependant upon the risk assessment and local circumstances.

Pension Schemes

CLG has stated that pension schemes will not be split as a result of the restructuring. There is no impact on Wiltshire authorities as a result of this decision, because they are all in the same pension scheme.

Recommended response is:

This Council agrees with the CLG that we should not split pension schemes.

Claims in connection with contracts of employment

CLG will put in place secondary legislation to provide that outstanding claims relating to the existing authority will transfer to the new authority.

Recommend response is:

We accept that in a TUPE-like situation this will apply.