

AGENDA

Meeting: STAFFING POLICY COMMITTEE
Place: The Pratchett Room - County Hall, Trowbridge BA14 8JN
Date: Wednesday 9 January 2013
Time: 10.30 am

Please direct any enquiries on this Agenda to Roger Bishton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713035 or email roger.bishton@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Allison Bucknell (Chair)	Cllr Francis Morland
Cllr Rod Eaton	Cllr John Noeken
Cllr Mike Hewitt (Vice-Chair)	Cllr Jane Scott OBE
Cllr Jon Hubbard	Cllr John Smale
Cllr David Jenkins	

Substitutes:

Cllr Rosemary Brown	Cllr Bill Moss
Cllr Chris Caswill	Cllr Christopher Newbury
Cllr Ernie Clark	Cllr Mark Packard
Cllr Mary Douglas	Cllr Jonathon Seed
Cllr George Jeans	

PART I

Items to be considered while the meeting is open to the public

1 **Apologies for absence**

2 **Minutes of Previous Meeting** *(Pages 1 - 4)*

To confirm the minutes of the meeting held on 7 November 2012.

3 **Declarations of Interest**

To receive any declarations of non-pecuniary or pecuniary interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of the agenda (acting on behalf of the Director of Resources) no later than 5pm on **Wednesday 2 January 2013**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Learning and Development Policy & Procedure** *(Pages 5 - 30)*

A report by the Service Director HR & OD is attached.

7 **Transfer of Undertakings & Protection (TUPE) Guidance for Managers**
(Pages 31 - 54)

A report by the Service Director HR & OD is attached.

8 **Pensions Auto-Enrolment Update** *(Pages 55 - 58)*

A report by the Service Director HR & OD is attached.

9 **Pay Policy Statement Update** *(Pages 59 - 72)*

A report by the Service Director HR & OD is attached.

10 **Date of Next Meeting**

To note that the next scheduled meeting of this Committee is due to be held on Wednesday 6 March 2013 in the Pratchett Room, New County Hall, Trowbridge, starting at 10.30am.

11 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be considered as a matter of urgency. Urgent items of a confidential nature may be considered under Part II of this agenda.

PART II

Items during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

None

This page is intentionally left blank

STAFFING POLICY COMMITTEE

DRAFT MINUTES OF THE STAFFING POLICY COMMITTEE MEETING HELD ON 7 NOVEMBER 2012 AT CH - ORKNEY ROOM, EAST WING - COUNTY HALL, TROWBRIDGE.

Present:

Cllr Allison Bucknell (Chairman), Cllr Rod Eaton, Cllr Mike Hewitt (Vice Chairman), Cllr Jon Hubbard, Cllr David Jenkins, Cllr Francis Morland, Cllr Bill Moss (Substitute), Cllr John Noeken and Cllr John Smale

67 **Apologies for absence**

An apology for absence was received from Cllr Jane Scott, who was substituted by Cllr Bill Moss.

68 **Minutes of Previous Meeting**

Resolved:

To confirm and sign as a correct record the minutes of the Committee meeting held on 5 September 2012, subject to the following amendment:-

Minute No 64 – Travel and Mileage Allowances Policy

Fourth paragraph, first sentence be amended to read:-

“Some concern was expressed *by Cllr Rod Eaton* at the proposal to permit cyclists to claim 40p per mile for the first 10,000 miles and the likely cost involved.”

69 **Declarations of Interest**

There were no declarations of interest.

70 **Chairman's Announcements**

The Chairman reminded Members that, at its meeting on 28 July 2010, this Committee approved a revised Trade Union Recognition and Facilities

Agreement on the proviso that it be reviewed after a period of time. Accordingly, an update report was duly presented to this Committee at its meeting on 23 November 2011 which proposed two amendments to the Agreements, both of which were agreed. At that meeting it was also requested that a further update be given in 12 months' time, i.e. in November 2012.

However, there were no proposed amendments to the current agreement and in these circumstances the Chairman had confirmed that the same arrangements would remain in place for a further 12 months with an update scheduled to be brought back to this Committee in November 2013.

71 **Public Participation**

There were no members of the public present or councillors' questions.

72 **CRB Policy**

The Committee received a report by the Service Director HR & OD on the revised CRB Policy consequent upon the implementation of the Protection of Freedoms Act 2012. The report outlined future changes which would impact on this policy over the next few months.

During discussion attention was drawn to the role of the CRB team and the need to ensure that CRB checks were carried out when necessary. The CRB team would also continue to work with the Criminal Records Bureau as a safeguard and the team would also offer the necessary advice and assistance to managers when necessary.

After some discussion,

Resolved:

- (1) **To approve the amended Criminal Records Disclosures Policy and procedure.**
- (2) **To delegate authority to the Service Director, HR & OD to approve the future changes to the Policy in December 2012 and March 2013 required due to legislative changes arising from the implementation of the Protection of Freedoms Act, after consultation with the Chairman.**

73 **Update on Equality and Diversity**

The Committee considered a report by the Service Director HR & OD which provided an update regarding the actions Wiltshire Council was taking to meet its requirements under the Equality Act 2010 and the Public Sector Equality Duty.

A concern was noted that, despite a number of communications through both Managers' Wire and Electric Wire asking staff to update their details on SAP, there was still a high percentage of "unknown" data with regards to both ethnicity and disability.

It was acknowledged that staff needed to be acquainted with the benefits that would be result from the provision of this data, which could be sensitive, and that these requests came as a result of a requirement from Central Government. There was also a need to ensure that staff felt safe in disclosing any sensitive personal data.

The Committee noted that the HR People Strategy 2012-2015 had been launched in October 2012 and that this strategy worked alongside the Business Plan and supported the Behaviours Framework. It was underpinned by an equality and inclusion ethos which would help to ensure that the Council met its obligations under the equality duty and actively demonstrated a commitment to deliver equality and inclusion outcomes.

In answer to a question, Members were informed that a Personal Care Room had been provided on the ground floor of New County Hall, where certain procedures such as bandage changes and injections could take place. Discussions were being held with the Public Health Department as to how this room could be fully utilised, the outcome of which would be reported to the Disabilities Forum. Members requested to be kept informed of developments.

After some discussion,

Resolved:

- (1) To note the contents of the report.**
- (2) To note that an Equalities Networking Lunch event was being planned for early 2013 and to request:-**
 - (a) that invitations to this Lunch be sent to all Councillors, especially to all members of this Committee.**
 - (b) that if possible arrangements be made for the Equalities Networking Lunch to be held on a date when this Committee was due to meet.**
- (3) To request that details of the full use of the Personal Care Room, situated on the ground floor of New County Hall be reported back to this Committee in due course.**

74 **Quarterly Workforce Reports**

The Committee received a quarterly workforce report, excluding fire, police and schools staff, and also casual employees and agency/professional services staff unless stated, for the quarter ended 30 September 2012 concerning:-

- Staffing Levels
- Sickness Absence
- New Health and Safety RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) Related Injuries
- New Disciplinary and Grievance Cases
- Voluntary Staff Turnover

It was noted that although there had been no change in sickness absences since the last quarter, stress/depression/mental health/fatigue continued to account for the highest proportion of sickness days lost at 21.8% of all absences. Various initiatives such as the ability to work from home and the provision of break out and quiet areas in New County Hall would hopefully assist in reducing stress but ongoing discussions were taking place with officers from Occupational Health to explore possible ways of further reducing this level of sickness.

Resolved:

To note the contents of the report.

75 **Future Meetings**

Resolved:

To note that the next scheduled meeting of this Committee was due to be held on Wednesday 9 January 2013 in the Pratchett Room, New County Hall, Trowbridge, starting at 10.30am.

76 **Urgent Items**

There were no items of urgent business.

(Duration of meeting: 10.30 - 11.40 am)

The Officer who has produced these minutes is Roger Bishton, of Democratic Services, direct line 01225 713035, e-mail roger.bishton@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

9 January 2013

LEARNING AND DEVELOPMENT POLICY AND PROCEDURE

Purpose of Report

1. This report presents a learning and development policy and procedure, which draws together information which already exists on HR direct into a framework document for ease of use for managers and employees
2. The policy and procedure reflects the current position in relation to learning and development. It is, however, recognised that the document may need to be updated after April 2013 to reflect any changes introduced as part of the current learning and development review.

Background

3. Currently information on learning and development is held on HR direct but appears in a number of different documents and sections.
4. This policy brings all this information into one framework document for managers and employees and provides a single place to access information on learning and development including provision, entitlement to allowances and roles and responsibilities.

Main Considerations for the Council

5. The scope of the learning and development review is currently under discussion but the aim of the review is to better understand the council's skill requirements for effective service delivery going forward, prioritise learning and development activity and investment, establish trends across services, and bring-together approaches to learning and development in order to maximise the provision going forward. It has been agreed through CLT in July 2012 that training budgets should be centralised with effect from April 2013.
6. The review will have an impact on how learning and development is organised and these changes will need to be reflected in the content of this policy and procedure. These changes to the policy will be consulted on.
7. The section on time off and allowances in the policy links to other policies covering travel and subsistence. However the policy also has a specific allowance for residential courses where travel can be claimed for one journey

home once per month during a course and there is also a books and equipment allowance for courses which lead to a nationally recognised qualification which has not been reviewed for a number of years. It is proposed that these allowances are reviewed in April to link with implementation of changes arising from the learning and development review.

8. Through the consultation process with key stakeholders we have become aware that separate arrangements exist within Leisure, relating to the time off and allowances claimed for training related to continuing professional development and maintenance of their qualifications. This includes groups such as life guards, coaches and swimming instructors who are required to attend regular updates. It is proposed that further work is undertaken to review these arrangements alongside the learning and development review work.
9. The frequently asked question section will be updated to include questions and answers relating to the learning and development review as more information becomes known.
10. In developing the policy and procedure key stakeholders were consulted including. An Equality Impact Assessment (EIA) has also taken place.
11. The policy was approved by JCC on 20 December 2012 following consultation with the learning and development team, operational human resources teams, the stakeholder panel, union representatives and other key stakeholders.

Environmental Impact of the Proposal

12. None.

Equalities Impact of the Proposal

13. An Equalities Impact Assessment was undertaken on 13 November 2012 and amendments have been made to the policy to reflect the outcomes of this particularly in relation to providing further information on reasonable adjustments.
14. It was recognised that further work needs to be undertaken on monitoring learning and development and this will be picked up as part of our ongoing equalities and diversity review.

Risk Assessment

15. None

Options Considered

16. None.

Recommendation

17. That Staffing Policy Committee approve publication of the policy as presented, and note that it will be updated in April 2013 to incorporate any changes implemented as part of the learning and development review.

Barry Pirie
Service Director
HR & OD

Report Author: Catherine Coombs, Human Resources Policy & Reward team

The following unpublished documents have been relied on in the preparation of this Report: None

This page is intentionally left blank

Wiltshire Council Human Resources

Learning and development policy and procedure

This policy can be made available in other languages and formats such as large print and audio on [request](#).

What is it?

The council is committed to developing and supporting staff to achieve the organisation's goals and to create a culture of continuous development to meet the changing needs of the organisation.

This policy sets out the key elements which make up the council's learning and development strategy and provides a framework for managers and employees to follow when they are involved in identifying and meeting learning and development needs.

Go straight to the section:

- [Who does it apply to?](#)
- [When does it apply/when does it not apply?](#)
- [What are the main points?](#)
- [What does it cover?](#)
- [Learning and development opportunities](#)
- [How are learning and development opportunities communicated?](#)
- [How will my learning and development needs be identified?](#)
- [How can I make a request for learning and development?](#)
- [Making the most of learning and development opportunities](#)
- [Preparing for learning and development](#)
- [Applying learning and development back into the workplace](#)
- [Criteria for considering all learning and development needs and requests](#)
- [Time to train policy and procedure](#)
- [How do I book/arrange my approved learning and development?](#)
- [How is learning and development paid for?](#)
- [Time off and allowances payable](#)
 - [External courses leading to a nationally recognised qualification](#)
 - [Agreement to repay training expenses leading to a nationally recognised qualification](#)
 - [Professional fees](#)
 - [Internal courses leading to a nationally recognised qualification](#)
 - [Learning and development which does not lead to a nationally recognised qualification](#)

- [Recording paid time off for training](#)
- [Learning and development records](#)
- [Evaluation of learning and development](#)
- [Equality and diversity](#)
- [Roles and responsibilities](#)
- [Frequently asked questions](#)
- [Legislation](#)
- [Further advice and information](#)

Who does it apply to?

This policy applies to all Wiltshire Council employees (with the exception of teaching and non-teaching staff employed in locally managed schools).

The principles set out in this policy relating to equality and diversity and the role of trainers will equally apply to external trainers and organisations where they are involved in providing learning and development on behalf or in partnership with the council. All other sections relating to employee entitlements will only apply to Wiltshire employees as referred above.

When does it apply?

This policy applies to all employees undertaking learning and development activities throughout their employment.

When does it not apply?

This policy does not apply to volunteers.

The section in the policy relating to time off and allowances may not apply to casual workers who work on a purely ad hoc basis or to some service specific training where separate arrangements may exist.

Please refer to your line manager for further service specific information.

What are the main points?

1. The council is committed to providing opportunities for all employees to engage in learning and development which will support the goals of the organisation as set out in the council's business plans and the people strategy.
2. The council recognises that ensuring that employees are skilled, knowledgeable and motivated is key to achieving the organisation's goals and vision and to providing excellent services to our communities and responding to their changing needs.

3. The main objective of learning and development is the achievement of better support and services for the people of Wiltshire.
4. This objective is supported corporately by the learning and development team who support all service areas and the [adult social care](#) and [children's workforce](#) learning and development services who work to promote high quality, cost effective support in the context of the council's and its partners' objectives, statutory responsibilities and central government priorities. These objectives, responsibilities and priorities are reflected in national service frameworks, service plans and the national workforce development strategy. The learning and development team also work to support effective workforce planning to ensure that the council has the right people in the right place with the right skills.
5. This policy is also linked to the objectives set out in the:
 - [behaviours framework](#)
 - [equality and diversity policy and procedure](#)
6. Senior managers in partnership with the organisation and development section are required to play a key role and commitment in identifying, maintaining and reviewing the skills, knowledge and the learning and development needs of service areas and ensuring that the organisation is equipped to offer and deliver high quality services in line with organisational goals now and in the future.
7. Managers and employees are responsible for identifying individual learning and development needs. Meeting these needs must be prioritised in relation to service delivery requirements. It is essential that successful learning and development is shared, supported and maintained to ensure that it is transferred back into the workplace as effectively as possible.
8. This policy sets out details of the learning and development framework and details of how you can access the opportunities and support which is available. This policy will be updated following the learning and development project implementation in April 2013.

What does it cover?

9. This policy covers learning and development needs which are identified through:
 - [recruitment](#)
 - [induction](#)
 - [supervision](#)
 - [appraisal](#)

- management through another HR procedure
 - [time to train request](#)
 - changes in the law, national or regional imperatives which changes service delivery.
 - commissioning of services which introduce new service delivery.
10. A wide range of learning and development activities are available for Wiltshire Council employees and these can also be offered to partners, other local authorities and charitable organisations

Learning and development opportunities

11. This section sets out details and links to some of the main general learning and development activities which are accessible to managers and employees, many of which are provided internally through the learning and development team. Where applicable your manager will also be able to inform you of specific learning and development requirements and opportunities organised within your service area.
12. [Leadership and Management Matters Development Programme](#)
These workshops are designed for all line managers and include modules which change over time to stay up to date and relevant.
13. [Leadership and Management Accreditation](#)
This is an accredited programme for those who have completed the Leadership and Management Matters development programme. It enables managers to gain a nationally recognised qualification by completing relevant workshops and assignments as evidence of their learning.
14. [Staff Matters Development Programme](#)
This covers a wide range of workshops covering personal and business effectiveness.
15. [Wiltshire Accredited Learning Centre](#)
Wiltshire Council has its own in house accredited learning centre which is recognised by a wide range of awarding bodies. The centre provides QCF qualifications (from within the new Qualifications and Credit framework) for example in social care, schools, business administration and management. There are also opportunities to improve maths and english skills and gain a nationally recognised qualification at the same level as GCSE.
16. [Apprenticeships](#)
An apprenticeship is a comprehensive work based development programme for individuals in employment. The council offers a number of apprenticeships with a structured development programme of

support to help individuals achieve a competence based qualification or technical certificate in their occupational area - in conjunction with Wiltshire Accredited Learning Centre. Please follow the link for further information about [apprenticeships](#).

17. [IT learning and development](#)
The IT learning and development team offer a variety of workshops to suit the abilities of all IT users and can also offer bespoke training to support particular areas of need. Workshops offer personal development, nationally recognised qualifications and work based application training.
18. [National graduate development programme](#)
This is for graduates on the national graduate development programme. The programme offers work placements and a combination of structured internal and external learning and development opportunities which can lead to a national qualification.
19. [Health and Safety Training](#)
A range of health and safety workshops are available including manual handling awareness, first aid, risk assessment certificates.
20. **Safeguarding training**
Safeguarding is everybody's business and impacts on a wider range of employees than just those working directly with children and vulnerable adults. Your role will have been defined in terms of the level of training required and your manager will inform you of this requirement. For further information follow the links relating to [adult social care](#) and children workforce via the [wiltshire pathways](#) website.
21. [Adult social care learning and development](#)
A range of opportunities are available please follow the link to the pages on the wire for further details.
22. **Children workforce learning and development**
For details of opportunities available please follow the link to the [wiltshire pathways](#) website.
23. **External Courses leading to nationally recognised qualifications**
If your role requires you to have a nationally recognised qualification you may be required or selected by your line manager to attend this type of course with an external provider. This may involve attending college or distance learning.
24. **Conferences and Seminars**
This includes a huge variety of conferences and seminars held by different external organisations covering a range of issues specific to different service areas. Attendance should always be agreed with your

line manager in advance and will usually only be approved for specialist roles where learning and development needs cannot be met in house. There is an intention to co-ordinate non-service specific opportunities corporately, to achieve economies in the future.

25. Briefings and workshops are arranged internally by various service areas on a range of issues. These could include regular planned training in your service area e.g. lifeguard training or more demand lead learning and development e.g. HR manager briefings, equality and diversity events, SAP and Lync and other system training.
26. Learning and development can also include:
 - On the job training
 - Buddying
 - Job swaps
 - Coaching
 - Mentoring
 - Shadowing
 - Secondments
 - E-learning

These opportunities can be arranged by you manager or the learning and development team and may be organised internally or externally.

27. Training for safety representatives - please see [time off for safety representatives policy](#) on HR direct.
28. Further details of internal learning and development opportunities including costs can be found on HR direct or from the learning and development team.

How are learning and development opportunities communicated?

29. You will find details of learning and development opportunities which are available internally on [HR direct](#). These are also regularly advertised internally on the electric wire, flyers or hub notice boards or information and advice can be sought directly from the learning and development team.
30. Details of learning and development opportunities related to equality issues can be found on the [equality and inclusion team](#) pages on the wire.
31. Details of external workshops, seminars and conferences related to specific service areas may need to be acquired from specific external providers.

32. You will find further details of learning and development opportunities connected with Adult Social Care on the [wire](#) or alternatively <mailto:DCStraining@wiltshire.gov.uk>.
33. Further details of learning and development for Children and Young People can be found on the [pathways website](#).

How will my learning and development needs be identified?

34. Your manager will work with you individually or within teams to discuss and assess your learning and development needs regularly throughout your employment as appropriate to the service area you work in.
35. This process will begin during recruitment and induction and should take place at regular periods thereafter, through supervision or as the need arises. Learning and development will be more formally reviewed during your annual [appraisal](#).
36. Assessing learning and development needs involves exploring and identifying any potential gaps in the knowledge and skills you require to do your job and any gaps which relate to other expectations connected with working with the council which also form part of your role (e.g. behaviours framework).
37. Your manager will also need to make sure that the assessment includes any knowledge and skills gaps related to known changes to service delivery requirements in line with the learning and development plan and business plan for the service area.
38. Once a learning and development need has been identified your manager will need to assess whether it can be met using the criteria set out in the section below.

How can I make a request for learning and development?

39. Identifying your learning and development needs is a two way process between you and you manager. You are therefore able to approach your manager with ideas and requests for learning and development which is relevant to your job role and the service needs of the organisation for your manager to consider for approval. This might be through supervision, appraisal or outside of this or using the [time to train policy](#).

Making the most of learning and development opportunities

Preparing for learning and development

40. To ensure that you get the most out of learning and development opportunities which are offered to you it is important that you make sure that you prepare beforehand.
41. Key to this is having a discussion with your manager to identify what you can get out of the opportunity and how you will use the learning afterwards in your job. Having a focus for what you would like to achieve from the opportunity will increase the likelihood of achieving it.
42. Preparation for learning and development might also include tasks such as :
 - ensuring that you undertake any pre-reading/or other preparation that has been requested
 - ensuring that you take the right equipment with you e.g. pens, paper etc
 - identifying any support needs you may have to access and to get the most out of the opportunity and ensuring that this is in place prior to the event e.g. booking communication support and ensuring funding is available for this.

Applying learning and development back in the workplace

43. Once you have completed a learning and development activity it is important to apply your learning and development back to the workplace in the most effective way.
44. Key to this is having the opportunity to evaluate and discuss the learning and development which has taken place with your manager and to put together a plan of how it can practically be applied to your work. This may form part of supervision, appraisal or other discussion and should be reviewed at regular intervals.
45. You should also share your learning with other colleagues whenever possible.

Criteria for considering all learning and development needs and requests

46. Your manager will assess all learning and development needs and requests using the following criteria related to whether the learning and development is:
 - a mandatory or compulsory requirement for your job or whether the council deems it necessary for you to attend.
 - A programme which would lead to a nationally recognised or professional qualification such as a degree, QCF award, certificate or diploma.

- not a requirement of your job but is relevant and directly related to your job effectiveness, work performance and/or further development of the service e.g. updating skills, personal development etc
- relevant and compatible to the learning and development plan or commissioning strategy and priorities of the service area you work in.

47. The following criteria will also be taken into account:

- The extent to which the learning development is of benefit to your job role in terms of the expected learning outcomes and the contribution to achieving service objectives.
- Budget priorities and availability.
- Whether the cost of the learning and development is reasonable in comparison with the benefits to be derived from it.
- Whether attendance is compatible with service delivery needs including the impact on customers and other employees. Your manager may need to balance any potential negative impact against the longer term benefits and consider options around achieving this e.g. delay learning and development during busy periods, stagger attendance if whole team involved.
- Whether there are national or regional imperatives which the service needs to give priority to.
- Whether the learning and development meets your specific learning and development needs and learning style and whether other options are more appropriate e.g. workshop attendance, distance learning, on the job training.
- The amount of study time and expenses previously granted to you.
- Equality of opportunity and fairness to other employees who might also benefit in accordance with the equality and diversity policy and procedure. Please see details of selection criteria below under the equality and diversity section.

48. Where learning and development can be provided internally this will be the preferred option. Where learning and development is to be provided externally this will usually be with the closest provider although managers will need to ensure that the quality of the provision will meet the identified learning and development needs.

49. Having considered your learning and development assessed needs or requests against the criteria, your manager should ensure that the correct authorisation is obtained through the budget holder.

50. If your learning and development request cannot be met your manager should let you know the reasons why it has been turned down or postponed.

Time to train policy and procedure

51. You can make a formal request for time off to attend training through the [time to train policy](#) which sets out the details of this legal entitlement. It is envisaged that the majority of requests should continue to be made directly to your line manager through supervision, appraisal or informally particularly if the training requested is internal, without the need to use this policy.

How do I book/arrange my approved learning and development?

52. Once approval from your manager has been given for your learning and development you will need to agree with your manager who will be responsible for making the arrangements. Please note that as part of the learning and development review a new approvals process is due to be put in place from April 2013 until this time your manager will continue to be responsible for approving learning and development requests.
53. If it has been agreed that you should attend an internal workshop you will need to send a request to attend to your manager via SAP/ESS. Your manager will need to approve your request via SAP as there could be a charge for attending the workshop and this will ensure that there are places on the workshop and that you are allocated one. Your manager will need to provide or obtain a cost centre code to ensure that any internal payment transfers are made where this is relevant.
54. Additionally it is possible to pre-book onto a workshop using SAP ESS by registering your interest in attending a workshop which does not currently have any planned dates. Once the workshop date is offered you will be notified by the learning and development team and you will need to book on the workshop via SAP as outlined above.
55. Detailed instructions on booking and pre-booking workshops can be found in the SAP user guides published on the wire.
56. If the learning and development opportunity you wish to attend relates to Adult care you will need to follow the instructions set out on the wire under [DCS training](#). Similarly if you wish to attend a workshop related to working with children and young people you will need to follow the instructions set out on the [wiltshire pathways](#) website.
57. If you do not have access to a PC and SAP you or your manager (as agreed above) can contact the [learning and development team](#) directly to book a place on a workshop. If there is a charge to attend the workshop you or your line manager will need to provide the cost centre code when contacting the team to book onto the workshop.

58. If you are interested in gaining a qualification offered by the [Wiltshire Accredited Learning Centre](#) you should contact the [Centre](#) to discuss your requirements and for further information and advice.
59. If it has been approved that you can attend an external learning and development opportunity e.g. a course/seminar/workshop you or your manager will need to follow the booking instructions relevant to this.

How is learning and development paid for?

60. Corporate funding has been retained for some learning and development activities and where an activity is corporately funded costs will not fall directly to service areas. The scope of learning and development activities that this applies to is currently subject to review for 2013. For the most up to date information on costs and funding please see internal workshop details on HR direct or contact the learning and development team.
61. Where the cost associated with your learning and development does not fall under the criteria for corporate funding arrangements the cost will fall to the service area. Your manager is responsible for ensuring that the correct approval for training is obtained through the budget holder in the relevant service area before a place is applied for or booked. Your manager will be required to provide a cost centre code where appropriate for internally provided workshops.
62. Some full or co-funding may be available under the skills funding agency contract for some learners undertaking courses with the [Wiltshire Accredited Learning Centre](#). This is only available in limited cases and you will be advised by the Centre if this available to you for the qualification you are undertaking. Where funding is not available costs will fall to the service area.
63. Where reasonable adjustments are required to facilitate access to learning and development you or your manager (as agreed) should discuss these with the learning and development team. Where there are costs over and above adjustments which can be made by the learning and development team to enable access to the opportunity, funding may be available through the reasonable adjustment budget which is held by the Head of Occupational Health and Safety.
64. Your manager is responsible for ensuring that any other expenses and invoices connected with your learning and development including external courses are processed through finance and coded against the correct service area budget. Managers are likely to need to raise a purchase order number for suppliers to use on invoices or check the arrangements which apply in their service area.

Time off and allowances payable

External courses leading to a nationally recognised qualification (e.g. planning degree, MBA)

65. If you are selected to attend this type of course you will be entitled to some fees and allowances:
- Course fees - registrations and examination fees paid in full
 - Paid time off for training – where course attendance has been approved, or
 - Paid time off for study - where distance learning has been approved. The appropriate amount of paid time off for study should be agreed with your manager and should be based on the recommended requirements specified by distance learning provider. Further advice and guidance can be obtained from the learning and development team. *please see note below
 - Paid time off to sit examinations
 - Time off to a maximum of half a day per subject up to a maximum of 5 days per academic year to cover **one** of the following reasons only as agreed with your manager:
 - Revision leave/revision course for those on distance learning
 - Research assignment which counts towards continuous assessment
 - Preparation of a final project*please see note below relating to input of own time
 - Travel – business mileage rate - paid in line with HRMC guidelines as outlined in the [travel expenses policy](#). Green car salary sacrifice scheme user mileage rates are also covered under the travel expenses policy.
 - Subsistence - please refer to the subsistence, [accommodation and meal allowances policy](#).
 - Residential courses – out of pocket expenses to a maximum limit per night and travelling allowances plus one journey home per month.
 - Books and equipment - the first £15 of the full amount spent and then 50% of the next £90 spent (maximum refund = £60). Receipts must be attached.
66. *Learning and development which leads to a nationally recognised qualification benefits both the organisation and individual members of staff personally. Although the organisation will grant time off and allowances as outlined above for approved courses, you are also expected to contribute some of your own time in order to successfully complete your course and achieve your nationally recognised qualification.

67. All arrangements for time off as listed above must be approved by your manager before it is taken.
68. Expenses relating to exam re-sits will only be paid once and only where there has been satisfactory progress in your studies in the view of the council.
69. Please note that any hotel bookings need to be booked through [Howard travel](#) as the council's preferred supplier. Please follow the link provided for details of the procedure to follow.
70. Claims for travel and allowances should be made via SAP ESS. Alternatively you should complete the [training travel expense form](#) following the [claiming training travel expenses procedure](#) on HR direct.
71. Other expenses you personally incur for exams, books and equipment relating to your training can be claimed on the [general expenses form](#).

Agreement to repay training expenses – courses leading to a nationally recognised qualification

72. As part of the agreement for you to attend a course leading to a nationally recognised qualification your manager may arrange for you to sign an agreement to repay some or all of your learning and development expenses connected with attending this course if you leave the council within 2 years of completing your course. Please see the [learning and development agreement to repay training expenses form](#) for further details about the conditions related to this.
73. The council can also require a full 100% repayment from you if you:
 - fail to sit an exam without good reason
 - fail to show satisfactory progress in your studies in the view of the council (including not attending classes regularly and poor assessments for assignments, tests and examinations)
 - Withdraw from the course – this may include personal reasons etc (please see below)

(NB. Repayments do not include salary in respect of time off for training)

74. You are encouraged to speak to with your manager as soon as possible (and prior to taking any final action to withdraw) if you are experiencing any personal difficulties with or affecting your course. Your manager will assess whether any additional support can be put in place for you.

75. Where progress and attendance have been satisfactory, it may be possible to explore whether postponement is an alternative option to withdrawal from the course. In these circumstances a clear undertaking to rearrange attendance and completion of the course would need to be in place with an agreed timescale.
76. Your manager may waive repayment for withdrawals from your course where postponement is not appropriate for reasons connected with maternity, adoption or paternity leave, certain types of dismissal following an HR policy and procedure e.g. redundancy and dismissals relating to ill-health. Withdraws related to a protected characteristic should also be explored further and where appropriate advice should be sought. Further advice is available from an HR case adviser or the learning and development team.
77. In circumstances where a course is discontinued an alternative provider will be sought.

Professional fees

78. As part of your job role, or to support your professional development, you may be required to be a member of a professional body or association.
79. You are responsible for payment of your professional fees, memberships, registrations or subscriptions and no reimbursement or contribution towards these will be provided by the council. This is regardless of whether the professional membership is a requirement of your job role.
80. You may be able to claim tax relief through the HMRC on any professional fees and subscriptions you pay; further information is available on [HR Direct](#).

Internal courses leading to a nationally recognised qualification with the [Wiltshire Accredited Learning Centre](#).

81. These courses are based on practical assignments and a portfolio of evidence based around the workplace. You will be entitled to:
 - Course fees - paid in full
 - Paid time off - to meet with your course assessor and for personal study time some of which might need to be taken away from the workplace. The appropriate amount of paid time off for study should be agreed with your manager following discussion with the Wiltshire Accredited Learning Centre. All arrangements relating to taking time off for personal study should be agreed with your manager before it is taken.

- Other resources – the Wiltshire Accredited Learning Centre will provide you with essential resources relating to the qualification you are undertaking.
- Travel – business mileage rate - paid in line with HRMC guidelines as outlined in the [travel expenses policy](#). Green car salary sacrifice scheme user mileage rates are also covered under the travel expenses policy.
- Subsistence - please refer to the subsistence, [accommodation and meal allowances policy](#)

*please see note above in the section relating to external courses leading to a national qualification and the expectation for learners to make some input of their own time to the achievement of their qualifications.

Learning and development which does not lead to a nationally recognised qualification

82. If you are selected to attend learning and development that is not a requirement of your job but is relevant to your job e.g. updating skills, personal development (e.g. confidence and assertiveness skills, workload planning) you will be entitled to:
- Course/workshop fees paid
 - Paid time off to attend training and any approved preparation or follow up action connected to the training.
 - Travel – business mileage rate - paid in line with HRMC guidelines as outlined in the [travel expenses policy](#). Green car salary sacrifice scheme user mileage rates are also covered under the travel expenses policy.
 - Subsistence - please refer to the subsistence, [accommodation and meal allowances policy](#)
83. In exceptional circumstances your manager may agree that you can attend learning and development which is **not** directly relevant to your job but is relevant to the performance of the organisation. In these circumstances time off will be on an unpaid basis or alternatively you may reach an agreement with your manager to work flexibly to make up the time spent training. This type of learning and development will only be agreed where it does deliver a benefit to the performance of the organisation.

Recording paid time off for learning and development

84. Approved paid time off for learning and development will be based on a standard day of up to 7 hours 24 minutes. Where you have attended

an all day event and you work flexi time you should record a standard day on you flexi time sheet on this basis.

85. If you are a part-time employee you will be paid for your normal working hours on that day. If actual working time plus learning and development time, or learning and development time alone extends beyond your normal working day, the extra hours will be paid at plain time rate. Alternatively time off in lieu may be taken up to a maximum of 7 hours 24 minutes.
86. If you work part of a day before your attendance at a learning and development opportunity, the hours you can claim for that day including your attendance at the workshop/activity should add up to a maximum of 7 hours 24 minutes in total. Any additional hours beyond the standard working day of 7 hours 24 minutes will not be paid for.
87. Where your manager requests that you attend a training course as part of your role, which extends beyond your normal working hours, you should agree with your manager in advance of the workshop/activity how additional hours should be recorded (e.g. as flexitime, TOIL or overtime).

Learning and development records

88. A record of your training should be kept through the appraisal process. This is a shared document between yourself and your manager.

Evaluation of learning and development

89. All internal workshops will be evaluated and reviewed through your feedback as a participant. Evaluation and quality control will also be undertaken by the learning and development team in relation to the courses administered by the team or by the relevant service area where learning and development is provided through them.

Equality and diversity

The learning and development team aim to ensure:

- Employees wishing to undertake accredited programmes are selected on the basis of business need, merit and ability
- The marketing and booking process for development activities ensures fair access to all
- All learners have equal access to the development activities offered
- Learners are informed of the team's equal opportunities policy
- All employees are trained to understand and meet their responsibilities in law and within the policy

- All procedures reflect the team's equal opportunities policy, and
- Reasonable adjustments are made where appropriate to enable access to learning and development

Roles and responsibilities

Employee responsibilities

You will be expected to:

- Take responsibility for your own professional development and discuss your training and development needs with your manager and identify ways that these can be met through the appraisal process and ongoing supervision.
- Obtain your manager's approval for any learning and development leave before committing yourself to attend any activity such as a workshop/course and prior to it commencing
- Where agreed with your manager that you should make the booking arrangements, ensure that you make the appropriate booking/registration for the learning and development activity it has been agreed that you can attend
- Attend the learning and development activity or complete the programme, where a course of study is involved, unless there is a substantial reason for your non attendance
- If you are unable to attend the learning and development activity you should inform your manager and the activity organiser.
- Make every effort to maintain satisfactory progress and complete the course/programme
- Where you are on a course leading to a nationally recognised qualification ensure that you keep your manager up to date with your progress throughout the year, notify them of any problems that arise and sign the agreement to repay training expenses form as required.
- Ensure you are registered for the exams appropriate to the course you are attending and prepare for and sit all exams as appropriate
- Utilise your newly acquired knowledge or skills back in the workplace
- Share your learning with colleagues as requested. This may be a written paper, presentation, briefing or workshop to maximise the benefit of the learning and development.
- Feedback to your manager in supervision or appraisal the outcome(s) of the learning and development
- Ensure that all claims for course fees and expenses connected to your learning and development opportunity are approved by your manager in advance and claimed in a timely way.

Senior manager responsibilities:

- ensure that an appropriate learning and development plan is in place for your service area which meets the service delivery needs and priorities outlined in the business plan for your service and the organisation and the people strategy.
- ensure that there is a learning and development budget in place to support the plan with appropriate controls and monitoring
- consult with the learning and development team in this process where appropriate
- ensure that the learning and development plan is regularly reviewed and updated and is flexible enough to deal with changing national and local priorities and imperatives.
- ensure that the plan and changes to it are communicated to managers and employees within the relevant service areas.
- ensure that learning and development needs identified through appraisals are collated at team and /or service level and fed back to the learning and development team so that appropriate resources can be planned.
- actively demonstrate a commitment to learning and development and ensure that managers and employees in your service area have the skills to identify learning and development needs and take action to meet those needs.

Line manager responsibilities:

- contribute to the learning and development plan in your service area as appropriate
- use the overall learning and development plan for your service area to identify needs, priorities and budgets
- work with employees through supervision and appraisal to identify their learning and development needs and to consider these in the context of the learning and development plan, priorities and the budget
- provide additional support to employees who may need extra support taking responsibility for identifying their own learning and development needs or accessing learning and development opportunities as part of a reasonable adjustment.
- select appropriate learning and development activities with employees and ensure that they meet the learning needs and style of the individual they are selected for.
- Hold a pre-course briefing and discussion with each employee to ensure that the purpose, objectives and arrangements of the learning and development activity are clearly understood
- Agree with the employee who will make the booking what expenses and allowances can be claimed for.
- Ensure that an agreement to repay training expenses form is completed for courses leading to a nationally recognised qualification where appropriate and that a copy is sent to HR to be placed on the employee's personal record.

- Monitor attendance at learning and development opportunities and report absences using the normal absence management procedures via SAP.
- Hold a post course discussion to evaluate the learning and development against the objectives and identify how the learning can be implemented into the work place and maintained. Continue to monitor as appropriate.

Learning and development teams responsibilities:

- work with managers on learning and development plans for their team/service.
- provide a wide range of high quality internal workshops which support the organisations business plan, service area learning and development plans and the people strategy and are value for money and responsive to changing organisational needs.
- ensure that all courses offered are professionally run and that all trainers are suitably qualified and experienced.
- ensure that all trainers are made aware of the council's equality and diversity policy and procedure and that this is taken into account in terms of workshop bookings and arrangements and to ensure that individual needs are met as far as possible when attending workshops.
- Provide support and advice to managers and employees about learning and development.
- Arrange for evaluations to be carried out on a regular basis, involving all parties, so that processes can be monitored.

Trainer's responsibilities:

- deliver the relevant workshop in a professional manner in line with the:
 - behaviours framework
 - this learning and development policy
 - the objectives and training plan agreed with the learning and development team.
- be responsible for checking whether delegates require any adjustments in terms of the delivery of the workshop including content of workshops, presentation/training methods, venue and facilities and support needs in advance of the event.
- ensure that appropriate breaks are built into workshops
- provide feedback and evaluation to the learning and development team.

90. Frequently asked questions

I work part-time in a busy office and find it hard to attend the learning and development opportunities which are on offer. What are my options?

There may be some learning and development opportunities that you are required to attend as part of your job and some which are optional. You should always discuss any concerns which you have with your manager in the first instance and they will explore with you what options are available in relation to the learning and development you have been selected to attend and your workload.

Learning and development can take many forms and new technology can make opportunities more accessible. Where appropriate it is important that you and your manager explore the options available. It may be possible to lync into some learning and development opportunities and meetings, many organisations also provide webinars and other remote learning opportunities. Employees who have attended learning and development should be encouraged to share their learning with colleagues who have not been able to attend. Further advice can also be obtained from the learning and development team.

I would like to continue to keep up to date with learning and development opportunities while I am on maternity leave, how can I do this?

You should have a discussion with your manager about how you would like to be contacted and kept up to date with developments in the workplace while you are on maternity leave, preferably before you go on maternity leave. Your manager will be responsible for keeping you up to date with key work place information including learning and development opportunities while you are on maternity leave. You may choose to use your keeping in touch days to attend learning and development opportunities and you should agree this with your manager in advance.

I have identified that I need a reasonable adjustment to allow me to attend a workshop that I would like to attend due to a condition related to my health what should I do?

All training provided takes care to be fully accessible. A delegate should also make the training organiser aware of any specific individual requirement and this will be catered for.

If the workshop is internally run through the learning and development team you or your manager should contact the team to let them know and discuss what adjustments you require. If the learning and development team are not able to simply make the adjustment themselves or via the workshop leader, you may be referred to the occupational health team who provide advice on adjustments. It is possible that funding may be available from the reasonable adjustment budget in agreed cases.

If the learning and development event you wish to attend is run externally you should discuss your concerns with your manager and with the event organisers. Depending on the nature of the reasonable adjustment the external organisers may be able to make the adjustment for you. If this is not possible you should seek further advice from occupational health as above and it is possible that funding from the reasonable adjustment budget may be available in agreed cases.

Definitions

QFC – Qualifications and credit framework – this is a new framework for recognising and accreditation qualifications in England and Wales and Northern Ireland. It replaces the national qualifications framework which supported the achievement of NVQ's (national vocational qualifications)

Equal Opportunities

This policy has been Equality Impact Assessed ([link to EIA for policy](#)) to identify opportunities to promote equality and mitigate any negative or adverse impacts on particular groups.

If appropriate:

Managers will make any necessary adjustments to ensure that all employees are treated fairly. For further information see the guidance on equal opportunities in ([link to equal opps guidance](#))

Legislation

Note any specific pieces of legislation relied on

This policy has been reviewed by an external legal organisation to ensure compliance with (the above legislation and) our statutory duties.

Advice and guidance

If you require help in accessing or understanding this policy [\[or completing any of the associated forms\]](#) you should contact your line manager or trade union representative if you are a member.

If, due to the nature of your query, it is not appropriate to contact your line manager you should contact your head of service who will nominate an appropriate manager or colleague to help you.

See [guidance for managers – giving advice on policies](#).

Further information

There are a number of related policies and procedures that you should be aware of including:

There is also a **toolkit** including manager guidance and supporting documents to use when following this policy and procedure.

For further information please speak to your supervisor, manager, service director or contact your HR case adviser.

Policy author	HR Policy and Reward Team – (CC)
Policy implemented	DD-MM-YYYY
Policy last updated	DD-MM-YYYY

DRAFT

WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

9 January 2013

Transfer of Undertakings & Protection (TUPE) Guidance for Managers

Purpose of Report

1. This report presents the guidance for managers dealing with TUPE transfers for approval by Staffing Policy Committee.

Background

2. Service reviews are continuously occurring and some of these have the potential to involve TUPE transfers. TUPE is not a straight forward concept and can be difficult to follow.
3. These guidelines have been produced to assist managers in handling the process and to be aware of the different stages that need to be covered.

Main Considerations for the Council

4. Information is given on the 3 areas where TUPE may apply:
 - contracting out - where the council is transferring out a service;
 - contracting in - where the council is bringing a service back in-house;
 - contractor to contractor - where the contract is awarded to a new contractor.
5. The guidance explains the key stages to be followed and points to be aware of.
6. There is a toolkit at the back of the guidance which explains in more detail the legal definitions of TUPE and the importance of informing and consulting with the unions.

Consultation

7. The policy was approved by JCC on 20 December 2012 following consultation with HR, union representatives and other key stakeholders.

Environmental Impact of the Proposal

8. None

Equalities Impact of the Proposal

9. No negative impacts have been identified.

Risk Assessment

10. Risk assessment for specific service reviews are considered in the business report presented to cabinet/CLT by the relevant Service Director.

Financial Implications

11. For each TUPE transfer a business report with financial information and costs will have been prepared by the relevant Service Director for consideration by either cabinet or CLT depending on the scale of the transfer.

Options considered

12. None

Recommendation

13. That Staffing Policy Committee approve the guidance as presented.

**Barry Pirie
Service Director
HR & OD**

Report Author: Margaret Roots, Human Resources Policy & Reward team

The following unpublished documents have been relied on in the preparation of this report: None

Wiltshire Council Human Resources

TUPE Guidance for Managers

This guidance can be made available in other languages and formats such as large print and audio on [request](#).

What is it?

TUPE stands for the Transfer of Undertakings (Protection of Employment) Regulations 2006. The purpose of TUPE is to protect employees if the business in which they are employed changes hands. It preserves an employee's continuity of employment and terms and conditions of service.

An employee has the legal right to transfer to the new employer on their existing terms and conditions of employment and with all their existing employment rights and liabilities. This includes any outstanding claims such as claims for unlawful discrimination, unpaid wages or personal injury.

Its effect is to move employees and any associated contracted liabilities from the old employer (known as the transferor) to the new employer (known as the transferee).

There are three situations where TUPE might apply:

- Contracting Out or Outsourcing – where a client ceases to carry out activities for itself and assigns them to a contractor to perform.
- Contracting In or Insourcing – where the client stops the activities being carried out by a contractor and brings them back in house.
- Contractor to Contractor – where the contract ends and is awarded to a new contractor on subsequent re-tendering.

Each of these is explained further on.

Go straight to the section:

-
-
-
-

Who does it apply to?

TUPE 5.12.2012 Draft 3 Guidance for Managers

This policy applies to all Wiltshire Council employees (with the exception of teaching and non-teaching staff employed in locally managed schools).

When does it apply?

A relevant TUPE occurs when there is a business transfer or a service provision change (see toolkit, managers guidance for definitions - [link](#)). When a service review is being considered it is your responsibility to seek guidance from HR and Legal to determine if TUPE applies or not.

When does it not apply?

There are certain exemptions to a business transfer or a service provision change which are detailed in the managers' guidance toolkit ([link](#)).

The Process for contracting out- where Wiltshire Council is the transferor.

Planning

1. TUPE may be one of a range of possibilities being considered as part of a service review and you may find the [Organisational design toolkit](#) helpful in determining your service needs.
2. It is advised that the responsible Director (or nominee) sets up a Project Group comprising of representatives from Finance, Human Resources, Legal, Commissioning and the relevant Business managers to make sure that all options and proposals are considered. The Project Lead will be the nominated officer from the service area under review and Human Resources will act as the point of contact to drive the process forward.
3. Letters of intent need to be sent to the trade unions and they must be included in this preliminary planning stage so they can feed into the options being considered.
4. An announcement needs to be made to staff by the Project Lead explaining that their service is subject to a service review and they will be kept informed of any implications this will have for them. Further information on the legal duty to consult is given in the toolkit, managers' guidance ([link](#)).

Scoping

5. A preliminary scoping exercise for contracting out needs to be conducted

by the project group to determine the extent of the review and what positions may be affected and assigned to the transfer and the cost implications. The results of this exercise need to be included in the report that goes to cabinet or CLT (see points 12-14 below).

6. The scoping exercise information and instructions sheet should be used as a tool ([link to toolkit](#)) by the Project Group to identify all affected employees and to determine which employees fall within or outside of scope. It is an objective exercise to ascertain fairly those employees who are assigned to the economic entity that is being considered for transfer and to what extent they are employed on the activities of this economic entity.
7. The regulations do not quantify what percentage of time is required by employees working on the specific duties that are transferring for them to be included on the list. What is important is if there is a deliberate organisation of employees whose main purpose is to carry out the client's work. Discussions will need to take place to determine which employees are working on the dedicated duties that are transferring for the purpose of carrying out the client's work. Factors to be considered include:
 - what is written in employee's individual contracts on what their duties are.
 - what the management arrangements are for the service.
 - how the cost of employees services are allocated between different parts of the business.
8. This exercise will involve reviewing statements of particulars or contracts of employment, Job Evaluation Questionnaires (JEQ) and Job Descriptions (JD). The actual work undertaken will also need to be reviewed if this differs from the contents of the JEQs and JDs.
9. The spread sheet ([link to toolkit](#)) needs to be completed with the results of the scoping exercise. For data protection purposes the names of affected employees cannot be revealed at this stage but details of the numbers involved and the job titles can be given to members of the project group and the unions.
10. If an employee has a substantive contract of employment (or a contract of apprenticeship) immediately before the transfer and their role is earmarked as one to be transferred they are deemed to be 'assigned' for TUPE transfer and will be informed of this in writing.
11. It is essential that a clear audit trail is maintained of all decisions and actions taken by the Project Group so that any queries or challenges can be backed up with this supporting material.

Recommendation of a TUPE transfer

12. If the service review's decision is to recommend a TUPE transfer the Director needs to prepare a business report for cabinet or CLT which details the case for this and includes financial information that has been fully appraised by Finance. The results and financial implications from the scoping exercise will need to be included in the report.
13. The report must remember to identify any hidden costs or knock on effects such as:
 - staff who are separate from the main group of affected employees but their main role includes providing support to the affected group. This means they need to be included in the scoping exercise and could include administrative, finance, procurement or other support personnel. Remember to include any staff affected that may not be at work because they are on secondment, maternity leave, sickness absence etc.
 - payments that staff transferring-in may not be in receipt of from their old employer (the transferor) but are part of the terms and conditions of the new employer (the transferee). This would have an effect on the wages bill if harmonisation subsequently occurs making the transferred-in staff eligible to receive these payments. Examples could include enhanced rates of pay for working evenings, overtime pay etc.
14. All TUPE transfers need to be approved by either cabinet or CLT depending on the number of staff affected. Transfers involving 50 + staff require cabinet approval.
15. Once approval is obtained the project group will oversee the staff transfer and ensure legal and procedural compliance is met for the TUPE transfer.

Informing and Consulting with Trade Unions

16. There is a legal duty to consult with unions and individual employees about a TUPE transfer and also if any measures are envisaged. Details of what consultation involves and what needs to be included is given in the toolkit, managers' guidance (link).
17. As previously stipulated the unions should be included in the preliminary stage when the project group is considering a service

review. Once a decision is made that TUPE applies formal consultation commences.

Points to be aware of - other considerations

Secondments and TUPE

18. With increased partnership working amongst the public services secondments have sometimes been used when a service is transferred from one organisation to another with the intention that the employees remain as employees of the original organisation rather than be TUPE transferred.
19. However, owing to a recent employment tribunal these secondments are now risky and viewed as ineffective and the employee/s has indeed TUPE transferred which means the TUPE transfer policy, including consultation, needs to be followed.

Right to Opt Out of the Transfer

20. Under TUPE all assigned employees have the right to opt out of the transfer. You should obtain their written objection at the earliest opportunity and advise them of the consequences. ([template letter with advice on the consequences of their actions](#))
21. As TUPE protects an employee's continuity of employment and contractual entitlements opting out will mean that the employee's employment comes to an end at the transfer date and they have no right to be redeployed or to receive a redundancy payment. They have in effect terminated their contract of employment.
22. However, if an employee objects to the transfer and resigns because they feel the transfer will result in a substantial and detrimental change in their working conditions they may have the right to bring a claim for constructive dismissal if they have the necessary minimum continuous service of 1 year for employees employed before 6 April 2012 and 2 years for employees employed after 6 April 2012.

Disclosure of Employment Information required for Due Diligence

23. If the TUPE transfer is definitely to proceed a due diligence exercise needs to be undertaken where the old employer (the transferor) gathers and discloses employment information to the transferee (new employer) prior to negotiation of the transfer contract. This will ensure the transferee (new employer) will know exactly what it is liable for as they will inherit the contracts of employment of the transferred employees and all associated rights and liabilities.

24. Much of the information required can be gathered beforehand as part of the bidding and consultation process which will help when the official due diligence exercise must be done. However, any information provided before the 'official due diligence' exercise must, for data protection purposes, be anonymous. ([link to checklist 1](#))
25. The due diligence information must be provided by the old employer (Transferor) to the new employer (Transferee) 14 days before the transfer takes place. The provisional information already gathered and passed to the Transferee (new employer) as part of the bidding and consultation process will need to be finalised and updated and no longer has to be anonymous.
26. The due diligence questionnaire covers a wide range of information relating to the business and employees. ([link to checklist 2](#)).
27. Failure to supply the correct information required under TUPE regulations could make the transferor liable to fines of a minimum £500 per employee
28. The information received as part of the scoping and due diligence exercises may result in wanting to re-negotiate the contract and might involve a re-structuring, an alteration to the price or adding a particular warranty or indemnity which is why Commissioning and Legal need to be involved in the Project Group.

In-Sourcing a Service Provision or Business Transfer to the Council

29. If it has been agreed to bring a service back in-house or to take on a new service which will involve a TUPE transfer of staff to the council and cabinet/CLT approval has been obtained (refer to points 12 – 15 above) the relevant Service Director/Departmental Manager will need to make contact with HR, Legal and Commissioning to make sure the process is followed correctly.
30. The Service Director/Departmental Manager with the assistance of the HR lead and Legal is legally required to write to the existing provider with information on the service review/restructure. The letter will also contain information on any measures (changes) that are envisaged to the structure or terms and conditions for economic, technical or organisational (ETO) reasons post transfer (see points 47– 51) or, that no measures are envisaged.
31. Although, an employer is only required to consult with appropriate representatives of its own workforce in TUPE transfers both the transferor and Wiltshire Council will be held liable for any award of

- compensation made by an employment tribunal for failure to inform and consult properly. Therefore joint consultation with the appropriate representatives of the transferor (old employer) to ensure that the process runs smoothly is advisable or at the very least HR will need to ensure that the transferor (old employer) arranges for consultation to take place and attend with the Service Director or Departmental Manager any consultation meetings as appropriate with the transferor (old employer).
32. When arranging either collective or individual consultation meetings consideration should be given to ensuring meetings are accessible and that any reasonable adjustments are made.
33. Meetings should cover:
- letters to be sent to the assigned employees by the transferor explaining the transfer. The council's Service Director/HR Lead will need to check this is done.
 - a presentation by the Service Director/Head of Service to the affected employees with the opportunity for questions and answers which should be recorded for future reference.
 - consultation with both the existing providers' Trade Union representatives and the council's Trade Union representatives.
 - one to one meetings with assigned staff by the relevant manager and HR giving employees the opportunity to ask questions which need to be recorded along with the responses.
 - writing to any staff who did not attend consultations to keep them informed of the TUPE transfer process.
 - HR will need to investigate and consult with employees, or their employee representative, to see if a change in place of work amounts to a material detriment or not and for the decision to be conveyed to the affected employees.
 - discussions with affected staff on what entitlements they may get under their transferring terms and conditions of employment.
 - liaison with Pensions to provide pension information and maybe a presentation to affected employees to explain the provisions of the LGPS.
34. If there are not sufficient posts for all of the transferring employees consideration will need to be given to a redundancy exercise after the transfer has taken place. The redundancy policy and procedure followed will be the one according to the terms and conditions that the employees have transferred in on. Any costs involved with a redundancy exercise need to be taken into account in the service area/departmental budgets.
35. The Service Director/Departmental manager and HR need to check if

any recruitment is required if not all the employees are transferring. Make sure, however, that employees are kept informed and reassured that any advertising and recruitment will not affect their positions.

36. The HR Lead will liaise with Legal about contacting the existing provider with a due diligence letter confirming that the transfer is covered by TUPE and requesting the required information at least 14 days prior to the transfer date. The information required will include all payments, salaries and allowances (e.g. unsocial hours) and any deductions made. ([link to checklist 2](#))
37. Liaison with the SAP team will be necessary to build the new posts and structure into Wiltshire Council's payroll.
38. CRB checks will need to be undertaken if required.
39. Once the transfer has taken place HR should confirm with all transferred employees, via a transfer letter, that they are now employees of Wiltshire Council and arrange for them to attend an induction programme.
40. Payroll and starter forms will need to be completed.

Contractor to Contractor TUPE Transfer (Service Provision Changes)

41. The TUPE 2006 Regulations under the service provision changes allows for contractor to contractor transfers for which the responsibility for ensuring TUPE regulations are complied with rest with the respective contractors.
42. The project team should ensure that efforts are made to find out the numbers, grades, salaries etc. of outgoing contractor staff assigned for transfer to the new contractor ([refer to sample letter](#)).
43. Prior to the end of the initial contract the outgoing Contractor should be asked to supply information about the number of employees wholly or mainly employed to undertake the contract requirement. If it is apparent from the information provided that there may be a TUPE transfer then this information needs to be included in any subsequent tender documentation.
44. Wiltshire Council's commissioning expertise in this field along with the advice of Legal will be able to determine if a TUPE transfer is involved or not so that they can judge the accuracy of the proposed contract and pricing.

45. Wiltshire Council must be careful not to impose its own view of the application of TUPE on a third party and it will not guarantee any information received from an outgoing Contractor which is passed on to the incoming contractor. The information provided is for tenderers to form their own opinion and to price accordingly.
46. Wiltshire Council will not provide any indemnities for a Contractor's failure to comply with the requirement of the TUPE regulations.

Variation to terms and conditions of employment

47. A variation to terms and conditions of employment by either the transferor or transferee which is connected to the transfer is automatically unfair unless there is an ETO (Economic, Technical or Organisational) reason entailing changes in the workforce or a reason unconnected with the transfer. Any other variation will be void.
48. There is no statutory definition of an ETO but examples of an ETO reason are:

Economic reasons – where the demand for output has fallen and profitability is unsustainable without dismissing staff.

Technical reasons – where the transferee wishes to use new technology and the transferring employees do not have the required skills.

Organisational reasons – where it is not practical to transfer employees due to the location of the transferee.
49. The ETO reason must relate to the transferor's future conduct of the business and be relevant after the transfer. It must be an objective of the employer's plan and not just a possible consequence of it.
50. For an ETO reason to be valid the transferee must establish the need for a change in the workforce which normally means a workforce reduction or a change in the job function of the employees.
51. Changes to terms and conditions of employment in anticipation of a TUPE transfer are automatically void.

Possible Options of variations to terms and conditions

52. The harmonisation of terms and conditions of service on a transfer is a difficult issue and the options are very limited. The possible options listed below need to be viewed cautiously and are by no means safe.

These options must be discussed with HR and Legal before being considered and implemented.

53. Current case law indicates that the transferee can change terms and conditions of employment which are to the benefit of the employee. Harmonising up is, therefore, a potential option.
54. An agreement between parties to vary the contract involving detrimental changes could mean that there is less chance of a challenge although this would not be definite. It may be possible, however, if something else can be provided in return or it can be proven that owing to economic circumstances a more favourable settlement isn't possible without recourse to making job cuts.
55. Application for another position

An employee who has transferred but subsequently applies and is appointed to another position can be offered the new position on revised terms and conditions of employment.
56. Buy Out

Although not watertight it is possible for local authorities to buy out terms and conditions and to reach agreement to vary a contract and to write this into any agreement which may limit the chances of any challenge being brought.
57. Equal Pay claim

If a TUPE transfer results in a two tier system of terms and conditions of service that could potentially lead to an equal pay claim a tribunal may accept this as a defence argument.
58. Delaying the harmonisation

By delaying (for a considerable period of time, which is not defined) a harmonisation review of terms and conditions an ETO reason may develop during the intervening period which would mean the harmonisation is not connected to the TUPE transfer.

Pensions

59. There are special provisions for dealing with occupational pension schemes.
60. If the transferor (old employer) provided a pension scheme the

transferee (new employer) must provide some form of pension arrangement for members of the old employer's scheme and for employees who are eligible to join. It does not have to be the same as the arrangement provided by the old employer but will need to be of a minimum standard as specified under the Pension Act.

61. All employees transferring into the Council will become members of the Local Government Pension Scheme (LGPS) unless they actively decide to opt-out of the scheme. Contact will need to be made with the administrator of the Wiltshire Pension, [andrew.cunningham](#), fund prior to the transfer to make arrangements and to determine that there are no problems with transferring staff accessing the Wiltshire pension fund.
62. Under LGPS provisions employees being TUPE transferred from the council have entitlement to an LGPS pension or comparable 'good quality' pension under which they can continue to earn pension benefits through their future service. Contact must be made with the Wiltshire Pension Fund to ensure that the statutory obligations are fulfilled and to find out how the [new employer](#) can apply to become an admitted body to the LGPS scheme

Roles and responsibilities

Employee responsibilities

Line manager responsibilities

HR responsibilities

Frequently asked questions

- 1.
- 2.
- 3.
- 4.

Definitions

Equal Opportunities

This policy has been Equality Impact Assessed ([link to EIA for policy](#)) to identify opportunities to promote equality and mitigate any negative or adverse impacts on particular groups.

If appropriate:

Managers will make any necessary adjustments to ensure that all employees are treated fairly. For further information see the guidance on equal opportunities in ([link to equal opps guidance](#))

Legislation

Note any specific pieces of legislation relied on

This policy has been reviewed by an external legal organisation to ensure compliance with (the above legislation and) our statutory duties.

Advice and guidance

If you require help in accessing or understanding this policy [[or completing any of the associated forms](#)] you should contact your line manager or trade union representative if you are a member.

If, due to the nature of your query, it is not appropriate to contact your line manager you should contact your head of service who will nominate an appropriate manager or colleague to help you.

See [guidance for managers – giving advice on policies](#).

Further information

There are a number of related policies and procedures that you should be aware of including:

There is also a [toolkit](#) including manager guidance and supporting documents to use when following this policy and procedure.

For further information please speak to your supervisor, manager, service director or contact your [HR advisor](#).

Policy author	HR Policy and Reward Team – (Initials)
Policy implemented	DD-MM-YYYY
Policy last updated	DD-MM-YYYY

TOOLKIT

DEFINITIONS

MANAGER GUIDANCE

TUPE or not TUPE – What is a legal TUPE transfer?

Relevant Transfer:

63. The TUPE regulations apply when a 'relevant transfer' takes place.

A relevant transfer refers to either a business transfer or a service provision change. In some instances both are involved.

64. The regulations apply regardless of the size of the transferred business. They apply equally to a large business involving the transfer of hundreds of employees or a very small one transferring just one or a few employees. The new employer (the transferee) cannot choose which employees will transfer; they will inherit all the employees affected by the TUPE transfer.
65. A relevant transfer can still apply when there is a temporary cessation in the provision of the contract when one service finishes and the new one starts.
66. Transfers in the public sector are covered by the Cabinet's Office statement of practice 'Staff Transfers in the Public Sector' which guarantees TUPE equivalent treatment for any employees transferred.

What is a Business Transfer?

67. A business transfer is where a business undertaking or part of one is transferred from one employer to another as a going concern. This means that the identity of the employer will change and there will be the transfer of an 'economic entity' which retains its identity.
68. An economic entity means an identifiable set of resources, including employees, assigned to a business. The set of resources retains its

identity after the transfer. It can also apply when just part of a business is transferred. The business must have its headquarters in Great Britain.

69. The following factors are taken into account when deciding if TUPE applies to the business transfer:
- if the type of trade or business being conducted by the transferee (incoming business) is fundamentally the same as the transferor's (outgoing business)?
 - what tangible assets (buildings, moveable property) or intangible assets (such as goodwill) are transferred as part of a going concern.
 - whether the majority of the employees are taken on by the new employer.
 - whether any customers or service users are transferred.
 - the degree of similarity between the activities carried on, before and after the transfer.
70. If the answer is yes to the majority of the above it is safe to assume that there will be a transfer of an economic entity meaning TUPE applies and the TUPE policy and procedure needs to be followed. The Council's default position is that TUPE applies unless proved otherwise.

Exemptions to a business service provision?

71. Where resources are applied in a variable pattern over several parts of a business there is less likelihood that a transfer of any individual part of a business would qualify as a business transfer. If the transfer just involves the transfer of shares or the sale of equipment alone then it is unlikely to be a TUPE transfer.
72. The default position is that TUPE applies unless proved otherwise.
73. TUPE is complicated and, ultimately, if the economic identity test is challenged it would be a matter for the tribunals or courts to determine in each case whether there has been a TUPE transfer or not.

What are Service Provision Changes?

74. Service Provision Changes provides TUPE protection to employees where the undertaking in question is a service such as collecting rubbish or a maintenance one. There are three possibilities:
- Outsourcing or Contracting Out – where a client ceases to carry out activities for itself and assigns them to a contractor to perform.
 - Insourcing or Contracting In - where the client stops the activities being carried out by a contractor and brings them back in house.

- Change of contractor - where the contract ends and is awarded to a new contractor on subsequent re-tendering.
75. The regulations only apply where immediately 'before the service provision change there is an organised grouping of employees which carry out activities on behalf of the client' and 'the client intends that the activities will, following the service provision change, be carried out by the transferee'. Employees do not need to work exclusively on these activities to be affected but their principal purpose is carrying out the activities concerned for the client and they are deliberately organised and assigned to do so.
76. TUPE still applies if there is a temporary break in the continuity of the contract from when the contract finishes with the transferor (old employer) and begins with the transferee (new employee).
77. To determine the exact extent and effects of a change in service a scoping exercise needs to be conducted.
78. Once it is determined that a group of employees is covered by a service provision change all of those employees will transfer under TUPE to the new service provider irrespective of whether or not the group subsequently maintains its identity.

Exemptions to a Service Provision Change

79. Where there is no identifiable group of employees there is no service provision change and TUPE will not apply e.g. a contractor is engaged to provide a courier service but the collections and deliveries are carried out each day by various different couriers on an ad hoc basis.
80. If the contract is wholly or mainly to supply goods for the client's use it is not a service provision. For example if a client arranges a contractor to supply sandwiches and drinks to be sold in its staff canteen this would not be a service provision. However, if the contract was to run the client's staff canteen TUPE would apply.
81. When the client engages a contractor to provide a single specific event or a task of short-term duration such as organising a specific event e.g. a conference, it is not a service provision.

Informing and Consulting with Trade Unions

82. Wiltshire Council will enter into consultation with recognised Trade Unions and individual employees affected by the TUPE transfer as a

matter of course. (link to agreement between Wiltshire Council and the Council's Recognised Trades Union (Unison, GMB, Unite))

83. TUPE transfers trade union recognition agreements as long as the transferring group of employees maintains a distinct identity from the rest of the transferee's business.
84. Trade Union representatives of affected employees have the right to be informed about a prospective transfer and the service is subject to review. They must also be consulted about any measures which the transferor or transferee employer envisage taking with the affected employees. Envisaged means those measures that can be anticipated or foreseen as likely to happen. Measures are changes that will affect employees and can be of a major concern such as a possible major reorganisation or a minor change such as a change in pay arrangements.
85. There is no set time limit specified for consultation to take place other than the legislation states it must be meaningful. The consultation process should be planned and managed with full and proper discussions.
86. Both the old employer (transferor) and new employer (transferee) need to consult prior to the transfer with the trade unions of their respective employees who may be affected by the transfer. Wiltshire Council has recognised trade unions but this might not be the case for employers we are transferring services into or employers that are transferring services to us. These employees must be given the opportunity to elect their own representative (see points 86 - 88). The HR Lead of the project group needs to check who this person is, that consultation takes place and what measures, if any, are being taken. In the event that the employees do not elect an elected representative the employees may choose a nominated person.
87. All affected permanent, temporary, casual and apprentices should be included in the consultations plus any staff affected who are not currently at work owing to a career break, sabbatical, secondment, maternity leave, sick leave etc.

Agency Workers

88. Agency workers working temporarily in the service that is being transferred will not transfer with the employees of the transferor who are assigned or mainly assigned to the business and they do not have the right to participate in the election of employee representatives

89. However, the Agency Workers Regulations 2010 (AWR) requires the unions to be given information in the consultations about the use of agency workers by the transferor including:
- the number of agency workers working temporarily for the transferor and under its supervision.
 - the type of work those agency workers are carrying out and where they are working.

Election of Representatives

90. An employee representative can be an existing employee elected representative who may have been elected for other purposes or the employer invites the affected employees to elect one or more of their number to represent their interest in consultations.
91. The employer will need to check:
- there are enough representatives to represent the number of affected employees and the classes of employees.
 - the number of employees a nominee has to be proposed by.
 - that the candidates for nominated election are employees affected by the TUPE proposal.
 - that the workplace ballot for the election of employee representatives is conducted in secret and all affected employees are given the opportunity to put their name forward for election and to vote in the ballot.
92. Advice will need to be taken from Legal and HR to make sure a fair and legal election procedure is followed.

Good practice guidelines

For consistent consultations with the trade unions these should include:

93. Early Involvement for better understanding and transparency. Discussing key issues with the unions and the reasons why they are being considered giving the unions an opportunity to influence matters.

This will include:

- Checking which trade unions represent the affected staff.
- Determining what contact will be made with the trade unions prior to producing the briefing material.
- Deciding if the unions can be involved in the TUPE scoping brief.

- Looking at what are the likely key issues from the TUPE scoping review and how these can be raised at an early stage with the trade unions.
 - Responding to any views made by the trade unions at this early stage.
94. Making sure the unions have an understanding of the service being reviewed, how it is currently operating and why TUPE is being proposed rather than other options and if any support can be given to help their understanding of the situation. Making sure they comprehend the whole process and how the scoping, review and execution of the project will be undertaken.
 95. Briefing meetings and consultation meetings should be properly organised with agendas and papers circulated in advance to ensure all parties are involved in full discussions of the key issues. Meetings with the relevant trade unions should be minuted and attended by the project lead, human resources and the other members of the project group.
 96. Trade union representatives attending staff collective briefing sessions and being able to use these meetings to talk to their members. Any assistance that can be provided to help contact between the trade unions and their members affected by the TUPE transfer should be facilitated for instance they should be included in meetings between the transferee and staff.
 97. Information provided to the trade unions is given in a timely manner. Consideration needs to be given to when information is released, how detailed it is and how best it can be summarised. The information provided shouldn't contain any surprises; a verbal 'heads up' can be given prior to the release of written documentation, particularly if there is a delay in preparing it. The trade unions should receive information in advance or at the same time as the employees and any issues regarding confidentiality of the information provided must be raised with them.
 98. The trade unions contributing to the consultations by challenging the project milestones, suggesting alternatives, providing background research etc. Any feedback, suggestions and proposals made must be considered, responded to and recorded.
 99. Sharing final arrangements with the trade unions if the transfer goes ahead and giving them the opportunity to respond but keeping in mind the legal and Wiltshire Council deadlines. Final comments from the trade unions should be addressed, responded to and recorded.

Information to be provided

100. The following information on potentially affected employees will be needed for the consultations to take place:
- employees who will be transferred
 - those who may be transferred
 - those who are not transferring but their jobs may be affected by the proposed transfer
 - those whose job applications within the organisation are pending at the time of the transfer
 - existing employees of the transferee who will be affected by the transfer.
101. In addition the following information will need to be provided so that meaningful consultation can take place:
- the fact that the transfer is to take place.
 - the date of the transfer (approximately if no specific date).
 - the reasons for the transfer.
 - details of the economic entity to be transferred.
 - any legal, economic and social implications of the transfer i.e. the effect on employment contracts, statutory rights and collective agreements, any effect upon pay and other benefits in the employment package.
 - the measures the old employer (transferor) envisages that the new employer (transferee) will take in connection with the transfer.
 - the measures that the new employer (transferee) envisages taking with transferring employees. They must tell the transferor whether it is planning to dismiss any of the employees, alter their terms and conditions after the transfer or take any other measures in relation to their employment. Although, the changes that can legally be made as a result of a TUPE transfer are extremely limited.
 - if no measures are envisaged.
102. For all potentially affected employees information on terms and conditions of employment, policies and procedures, location and timescales will also need to be available.

Consultation Process

103. The process of consulting with trade unions and employees involves:
- an initial letter to affected employees outlining the plans.

- a letter of intent to the Trade Unions starting consultation.
 - discussions with employees to determine the full extent of their job role in relation to the completion of the scoping exercise.
 - provision of scoping exercise results to TUs with names removed for data protection.
 - an initial letter to affected employees earmarked by the scoping exercise outlining the transfer plans.
 - one to one discussions with employees regarding the outcome of scoping and the right of appeal against selection or non-selection.
 - a formal announcement by the Head of Service at a consultation meeting outlining further details to affected staff. Affected staff should be given the chance to ask questions and a record of these questions and the responses should be taken for future reference and records.
 - notification to the Transferee (new employer) giving an anonymous list of the affected employees with their terms and conditions of service and policies and procedures.
 - arrangements of a meeting between Transferee (new employer), TUs and affected staff.
 - provision of a measures letter confirming what changes will be made which will affect the staff or if there will be no measures.
 - regular updates for affected staff either verbally or in the form of a newsletter.
 - copy/copies of employee transfer letter(s).
104. Consultation should be taken with a view to obtaining agreement on how the transfer will be carried out and how the effects on employees will be managed.
105. The transferor and transferee must consider any representations made by the appointed or elected representatives and reply to those representations. If the representations are to be rejected reasons must be given for doing so in writing.
106. After the consultation period affected employees and trade union representatives must be informed in writing and given:

- the outcome of the consultation process
- the date the transfer will take place (if it goes ahead)
- further details of the new employer
- reassurance of future terms and conditions
- details of pension arrangements.

Penalty

107. Failure to inform and consult can lead to an Employment tribunal complaint and if successful the award can be up to 13 weeks pay per affected employee. The transferor and the transferee are both liable for any award of compensation made by an employment tribunal for failure to inform and consult.

This page is intentionally left blank

WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

9 January 2012

Pensions Auto-Enrolment Update

Purpose of Report

1. To provide an update regarding the actions Wiltshire Council is taking to implement the pensions auto-enrolment legislation in order to meet our staging date of 1 March 2013.

Main considerations

2. Workplace pensions law will require all employers to automatically enrol eligible jobholders into a pension scheme by 2017.
3. Wiltshire Council has a staging date of 1 March 2013, based on the size of our PAYE group, which is the date on which we will need to be compliant with the auto-enrolment legislation.
4. A working group has been set up comprising representatives from HR, payroll, finance, pensions, communications and Unison to ensure that we meet our requirements and communicate the changes to employees.
5. The legislation provides some options to employers to use postponement and transitional arrangements to extend the time periods for automatic enrolment for some groups of employees.
6. The Corporate Leadership Team have confirmed the recommendation of the working group to use transitional arrangements. This means that any eligible jobholders who:
 - meet the definition of an “eligible jobholder” as at 1 March 2013; and
 - had the option to join either the TPS or LGPS but either chose not to join, or joined then opted outwill not need to be automatically enrolled until 1 October 2017.
7. This arrangement only applies to existing employees as at 1 March 2013 and they still have the option to join the appropriate scheme at any point during the transition period if they choose to do so.
8. Any employee who was previously able to join the TPS or LGPS but does not meet the criteria for an “eligible jobholder” (i.e. is aged under 22 or above state pension age and/or does not meet the earnings trigger) must still be assessed and auto-enrolled if they subsequently meet these criteria.

9. CLT have also confirmed the use of postponement of earnings assessments for existing employees at initial staging date until 30 April 2013 in order to:
 - align the administration of auto-enrolment processes to the SAP payroll processes;
 - move all automatic enrolment into the 2013/14 financial year, ensuring deductions of tax and national insurance are allocated to the correct financial year and to avoid end of year adjustments; and
 - increase the time available for the integration and testing of the SAP modules
10. Postponement of earnings assessment will also be used for workers who are casual workers or are on contracts of less than 3 months. Under LGPS scheme rules these employees cannot be auto-enrolled but are eligible to choose to opt in to the Scheme if they wish. At the end of the three month postponement, if the individual is still employed by the council on the same assignment, they will automatically be enrolled into the LGPS scheme, as required by LGPS scheme rules.
11. Communications will go out early in 2013 regarding the approach we will be taking. We will be working closely with colleagues in the pensions team and with the unions to integrate communications about auto-enrolment with communications already planned regarding the LGPS 2014 reforms.

Financial impact

12. The aim of auto-enrolment legislation is to increase participation in pension scheme and therefore there will be a financial impact for the council in terms of additional contributions.
13. It is not possible to predict the financial impact of the changes as, although there is a requirement to automatically enrol employees into a pension scheme they will still have the right to opt-out.
14. The use of transitional arrangements means that we will defer a significant risk to 2017 as approximately 930 staff would otherwise have had to be enrolled into the scheme in April 2013. Without the use of transitional arrangements this could have cost the council anywhere between £250,000 and £2million in additional pension contributions, depending on the numbers of staff who chose to remain in the scheme.

Environmental Impact

15. None

Equalities Impact

16. None

Risk Assessment

17. None

Recommendation

18. That Staffing Policy Committee note the approach being taken to implement pensions auto-enrolment in Wiltshire.

**Barry Pirie
Service Director
HR & OD**

Report Author: Paula Marsh, Human Resources Policy & Reward team

The following unpublished documents have been relied on in the preparation of this report: None

This page is intentionally left blank

WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

9 January 2013

PAY POLICY STATEMENT UPDATE

Purpose of Report

1. This report presents the updated pay policy statement for approval by Staffing Policy Committee, prior to agreement by Cabinet and publication on the council's website.

Background

2. Under chapter 8 of the Localism Act 2011 every local authority must prepare a pay policy statement for the financial year 2012/13 and each subsequent financial year.
3. Wiltshire Council originally published their pay policy statement in February 2012.
4. We are required to publish an updated policy on our website by 1st April 2013.

Main Considerations for the Council

5. There are relatively few changes to the policy. The main requirement has is to check the accuracy and where required update the figures relating to:
 - Headcount
 - Budget
 - Redundancy figures
 - Ratios
6. The budget figure highlighted within the introduction of the policy will be updated once we have confirmed final figure from finance.

Consultation

7. The policy will require full council approval prior to publication.

Environmental Impact of the Proposal

8. None

Equalities Impact of the Proposal

9. None

Risk Assessment

10. None

Financial Implications

11. None

Options considered

12. None

Recommendation

13. That Staffing Policy Committee approve the draft policy to go to full council in February 2013 on the basis that budget figure will be reviewed and updated prior to full council approval.

Barry Pirie
Service Director
HR & OD

Report Author: Paula Marsh, Human Resources Policy & Reward team

The following unpublished documents have been relied on in the preparation of this report: None

Wiltshire Council Human Resources

Pay Policy Statement

This policy can be made available in other languages and formats such as large print and audio on [request](#).

What is it?

The pay policy statement sets out the council's approach to pay and reward for senior managers and the lowest paid employees for the financial year 2013-2014.

Its purpose is to provide a clear and transparent policy, which demonstrates accountability and value for money. The policy also meets the council's obligations under the Localism Act 2011 and the Code of Recommended Practice for Local Authorities on Data Transparency.

The pay policy statement sets out the authority's policies for the financial year relating to:

- the remuneration of chief officers
- the remuneration of the lowest-paid employees
- the relationship between the remuneration of chief officers and employees who are not chief officers.

Remuneration for the purposes of this statement includes three elements:

- basic salary
- pension
- any other allowances arising from employment

The term "chief officer" in this instance applies to more posts than the usual council definition, and includes the following senior manager roles:

Corporate Director
Service Director
Head of Service
Some lead professional jobs

The term "lowest paid employees" refers to those employees on the lowest spinal column point (scp) of our grading system. This is scp 5 of grade A, which is currently £12,312 per annum.

Go straight to the section:

- Introduction
- Who does it apply to?
- When does it apply?
- What are the main points?
- The level and elements of remuneration for employees
- Remuneration on recruitment
- Increases and additions to remuneration
- The use of performance-related pay
- The use of bonuses
- The approach to the payment of employees on their ceasing to be employed by the authority
- The pension scheme
- Any other allowances arising from employment
- Governance arrangements
- The publication of and access to information relating to remuneration of chief officers
- The relationship between the remuneration of chief officers and employees who are not chief officers.

Introduction

Wiltshire Council is a large and complex organisation providing a wide range of services to the community, with an annual budget of £326.655m (2012/13).

In order to deliver these services around is 13,250 people work for the council, 8000 of which work in schools, in a variety of diverse roles from corporate director to social worker, to teaching assistant to general cleaner.

It is important to establish this pay policy statement in the context of the organisation, and with regard to the financial difficulties the council is currently facing.

In 2010/11, in order to make the required employee related savings of £12m over the next 4 years the council negotiated some changes to employee terms and conditions with the recognised unions. As a consequence of these negotiations a new redundancy pay policy was introduced, and different terms were agreed for voluntary and compulsory redundancies. Pay protection arrangements were reduced from three years to one year and it was agreed that increments would be frozen until 2014. Essential, casual and excess travel allowances were also removed, resulting in the HMRC mileage rate being applied for all mileage claims.

Staffing reviews have since been conducted whereby 614 management and staff posts have been deleted, saving the council a total of £17.7m. These

reviews are still ongoing with the aim of making further savings, resulting in a more efficient organisation.

In November 2011 the council decided to delete the post of chief executive and one of the four corporate directors. A new leadership model comprising the remaining three corporate directors working in conjunction with cabinet has been implemented which has saved the council £400,000 per annum. There have been no increases to senior managers' pay as a result of this change.

The council has now adopted a leadership model which has moved away from grouping professional services in a department structure. Services now work together, as one team, across relevant areas to ensure a genuine customer and community focus.

The extended leadership team, the three corporate directors and all service directors, work together with cabinet members to ensure communities' needs are met and the business plan is delivered.

Who does it apply to?

This pay policy statement applies to all non- schools employees of Wiltshire Council.

When does it apply?

This pay policy statement applies for the financial year 2013/14. It will be reviewed and updated on a yearly basis.

What are the main points?

1. This pay policy statement sets out the pay policies which apply to both the lowest paid and highest paid employees within the council.
2. In many cases the pay policies are the same for all employees. Where there are differences, these have been clearly outlined below.

The level and elements of remuneration for employees

3. In line with good employment practice the majority of jobs within the council have been evaluated using a job evaluation scheme. This is to ensure that jobs are graded fairly and equitably, and that the council complies with the Equal Pay Act.
4. A small number of jobs i.e. Youth and Community workers and Soulbury staff are covered by national salary scales, and therefore the evaluation schemes do not apply.
5. The council uses two job evaluation schemes in order to rank jobs.

Hay job evaluation scheme:

6. The Hay job evaluation scheme is used to evaluate senior manager jobs within the council (currently 102 employees), which include the following roles:
 - Corporate Director
 - Service Director
 - Head of Service
 - Some lead professional jobs
7. Each job is assessed by a panel of three Hay trained evaluators. The evaluators consider the job against each Hay element and sub-element and apply the description and points that best fit the job being evaluated. The values awarded are subsequently added together to give a total job score.
8. The Hay Group periodically carry out quality control checks to ensure the consistency of job scores in line with the conventions of the scheme.
9. The job score determines the grade the job. There are 8 Hay grades each containing a salary range over 4 spinal column points.
10. See the [Hay job evaluation scheme](#), the [points to grades](#) and [salary bands](#) for further details.
11. The council aims to ensure that the pay scales for hay posts are sensitive to labour market pressures. Pay scales for Hay graded posts were first implemented in 2002 and are assessed periodically to ensure that they remain competitive. This assessment is conducted using the Hay Group Ltd databank of pay rates for organisations in the public and not for profit sector.

Greater London Provincial Council job evaluation (GLPC) scheme:

12. The GLPC job evaluation scheme is used to evaluate the majority of jobs within the council (currently 5272 employees).
13. Each job is assessed by a panel of three trained GLPC evaluators. The evaluators consider each job against a set of factors and award a level per factor. The values of the levels are added together to give a total job score.
14. The job score determines the grade for the job. There are 15 grades, each grade containing between 2 and 4 increments. The GLPC pay

grades were first implemented and agreed with the unions as part of the Pay Reform agreement in 2007.

15. See the [GLPC evaluation scheme](#), [the points to grades](#) and [salary bands](#) for further details.
16. The council aims to ensure that the GLPC scheme is appropriately applied and that there is continuity and consistency in the results. The evaluation process and a sample of the scores are checked externally by job evaluation specialists in the South West Councils organisation.

Remuneration on recruitment

17. The same recruitment policies apply to all employees who take up a new appointment with the council, regardless of grade.
18. The council advertises all posts through the careers website, and may also employ a recruitment agency to provide a shortlist of candidates for senior manager jobs.
19. The council has a market supplement policy which stipulates that if there are recruitment difficulties and it is shown that the council are paying below the market rate for the job, a market supplement may be paid.
20. Market supplements are only payable to a small number of jobs which are evaluated using the GLPC scheme. No market supplements are paid to Hay graded employees. See the list of [market supplements](#) for current details.
21. Candidates are normally appointed on the minimum spinal column point of the grade for the post.
22. If a candidate is already being paid above the minimum point of the post they are applying for, the appointment may in some circumstances be on the next increment above their current salary, subject to the maximum of the grade.
23. The recruitment procedure for Corporate and Service Director posts is undertaken by the Officer Appointments Committee. Once an appointment is proposed, cabinet is required to ratify the decision and salary level within the band before the appointment is confirmed.
24. In line with the requirements of the Localism Act 2011, all chief and senior officer jobs, including those paid over £100,000 per year, are assessed by applying the Hay job evaluation scheme. The job is then allocated the appropriate existing Hay grade and pay band, and a salary offer will only be made within that pay band.

25. Where it is necessary for any newly appointed employee to relocate more than 15 miles in order to take up an appointment the council may make a contribution towards relocation expenses.

Increases and additions to remuneration

26. The council's policy is to apply the nationally negotiated JNC pay award for Hay graded employees, and NJC pay award for GLPC graded employees which takes effect from 1st April each year.
27. The council also employs a small number of specialist employees covered by Youth and Community and Soulbury salary scales which are also negotiated nationally.
28. The last annual pay awards were agreed for JNC employees in April 2008 and NJC employees in 2009. Since then, no national pay awards have been agreed and applied.
29. Any nationally negotiated pay awards agreed for April 2012 will be implemented as usual.
30. For Hay graded employees incremental progression through the grade is based on satisfactory performance measured over a 12 month period. Increments are paid on 1st April each year subject to satisfactory performance, and a minimum of 6 months in post at that time. There is no provision for the payment of an increment at any other time.
31. For GLPC graded employees, increments are awarded automatically up to the maximum of the grade unless formal proceedings are taking place under the Improving Work Performance Policy. Increments are paid on the 1st April each year, or six months after the start date (if the starting date is between October and April) and there is no provision for the payment of an increment at any other time.
32. As one of a number of cost saving measures a two year increment freeze has been agreed jointly between Wiltshire Council and the recognised unions. This means that no annual increments will be paid in either April 2012 or April 2013 for any employees of Wiltshire Council.

The use of performance-related pay

33. It is the council's policy that Hay graded employees are subject to a performance appraisal each year. If the performance is measured as satisfactory, an increment may be awarded (subject to point 30. above). If the performance does not meet the required standard an increment may be withheld.

34. For GLPC graded employees, increments are awarded automatically to the maximum of the grade (subject to point 31. above) unless formal proceedings are taking place under the Improving Work Performance Policy.

The use of bonuses

35. The council does not offer a bonus or honorarium scheme to any employee.

The approach to the payment of employees on their ceasing to be employed by the authority

36. Employees who leave the council's employment are entitled to payment of their contractual notice, along with any outstanding holiday pay.
37. The council does not make any additional payments to employees whose employment ceases, except in the case of redundancy.
38. All employees are subject to the same redundancy payments policy.
39. If employees choose to volunteer and are accepted for redundancy they are entitled to a payment calculated as follows:
- Statutory weeks x normal weekly pay x 2.5, capped at 40 weeks, with a minimum payment of £3000 (pro rata for part time staff).
40. If employees choose not to volunteer for redundancy, and cannot be redeployed, they will leave on compulsory grounds. The payment is calculated as follows:
- Statutory weeks x weekly salary (capped at £430), with a cap of 30 weeks pay or 20 years service. There is a minimum payment of £1500 (pro rata for part time staff).
41. If employees are aged 55 or over, and have been a member of the pension scheme for at least 3 months, they are able to receive their pension and lump sum early if their employment is terminated on grounds of redundancy.
42. No augmentation to pension will apply for any employee.
43. If employees are dismissed on redundancy grounds, and receive a voluntary (enhanced) redundancy payment, they may be considered for re-employment to posts within Wiltshire Council after the minimum statutory period of four weeks has elapsed subject to the following conditions:

- The post did not exist or was not foreseeable at the time of the dismissal.
 - The vacancy has been advertised in accordance with Wiltshire Council policy and procedures.
 - The appointment was made on the basis of the best person for the job with regard to the usual selection procedures.
 - The appointment has corporate director approval.
44. These conditions apply for 12 months from the date of the dismissal, after which the employee may be considered for re-employment to any post within Wiltshire Council.

The pension scheme

45. All employees with a contract of employment of 3 months or more are entitled to join the Local Government Pension Scheme.
46. Employee contribution levels vary between 5.5 – 7.5% according to the employee's salary.
47. The benefits of the scheme for all members include:
- A tiered ill health retirement package if employees have to leave work at any age due to permanent ill health. This could give employees benefits, paid straight away, and which could be increased if they are unlikely to be capable of gainful employment within 3 years of leaving.
 - Early payment of benefits if employees are made redundant or retired on business efficiency grounds at age 55 or over.
 - The right to voluntarily retire from age 60, even though the Scheme's normal pension age is 65. Employees can retire from as early as age 55, provided the employer agrees.
 - Flexible retirement from age 55 if employees reduce their hours, or move to a less senior position. Provided the employer agrees, employees can draw all of their benefits – helping them ease into their retirement.
48. Further information about the pension scheme can be found on the [pensions website](#).

Any other allowances arising from employment

Payment for acting up or additional duties

49. This policy applies only to GLPC graded employees who, on a temporary basis:

- act up – carrying out the full responsibilities and duties of a higher graded post either for some or all of their working hours; or
- carry out some, but not all, duties or responsibilities of a higher graded post for some or all of their working hours; or
- take on additional duties within their role.

50. The policy allows for employees to receive the salary difference between the lower and higher graded job, calculated on a percentage basis if the additional duties are taken on for only part of the working week.

Unsocial hours allowances

51. The council provides an additional allowance, expressed as a percentage of the basic rate, for regularly working late evenings/early mornings/nights/Sundays. These payments are graduated according to the degree of unsocial hours working and range from 10% to 33% in addition to normal hourly rate.

52. Unsocial hours allowances are only payable for GLPC graded jobs, and are not available for senior managers.

Local election duties – Acting Returning Officer

53. The role of Acting Returning Officer is currently being carried out by a nominated corporate director. Fees are paid in line with the guidance stipulated from the Ministry of Justice for the relevant elections.

Governance arrangements

54. The council's policy is to apply the nationally negotiated JNC and NJC pay awards, which take effect from 1st April each year.

55. The council also relies on national negotiation for some key provisions of employment such as the sickness and maternity schemes.

56. The council negotiates locally on some other conditions of employment, such as pay and grading, travel expenses, overtime payments and unsocial hours allowances.

57. For these local conditions of employment, the council consults and negotiates with the relevant trade unions in order to reach agreement. These conditions and allowances are then referred to Staffing Policy Committee for agreement.

58. The role of Staffing Policy Committee is to determine, monitor and review staffing policies and practices to secure the best use and development of the council's staff. This includes the power to deal with all matters relating to staff terms and conditions.

59. The full remit of the council’s Staffing Policy Committee is contained within the constitution.

The publication of and access to information relating to remuneration of chief officers

60. In accordance with the Code of Recommended Practice for Local Authorities on Data Transparency, the council is committing to publishing the following information relating to senior employees via the council’s website:

- Senior employees salaries which are £58,200 and above
- Names of the individuals (to be agreed with each individual)
- A job description for each post
- Budget responsibility for each post
- Number of direct reports for each post
- An organisational chart of the staff structure of the local authority

61. This information will be available via the council’s website from 1st April 2012, and updated on a monthly basis.

The relationship between the remuneration of chief officers and employees who are not chief officers.

62. In terms of overall remuneration packages the council’s policy is to set different levels of basic pay to reflect the different sizes of jobs, but not to differentiate on other allowances, benefits and payments it makes.

63. The Hutton Review of Fair Pay in the Public Sector recommends a maximum ratio of the highest remunerated post compared with the lowest remunerated post of 1:20

64. The table below shows the relationship between the highest and lowest paid employees:

	Annual FTE Salary	Ratio
Highest Paid	£130,556	
Lowest paid	£12,312	10.6
Mean Salary	£23,902	5.46
Median Salary	£21,519	6.07

65. The council would therefore not expect the remuneration of its highest paid employee to exceed 20 times that of the lowest group of employees. The current ratio is well within the Hutton review guidelines at 1:10.6

Definitions

NJC – National Joint Council

JNC – Joint Negotiating Committee

GLPC – Greater London Provincial Council

SOULBURY staff - Educational improvement professionals. These staff are drawn from different sources, including senior members of the teaching profession. Their role is to advise local authorities and educational institutions on a wide range of professional, organisational, management, curriculum and related children’s services issues, with the overall aim of enhancing the quality of education and related services.

Equal Opportunities

This policy has been Equality Impact Assessed (link to EIA for policy) to identify opportunities to promote equality and mitigate any negative or adverse impacts on particular groups.

Legislation

Localism Act 2011

Equality Act 2010

This policy has been reviewed by the legal team to ensure compliance with the above legislation and our statutory duties.

Further information

There are a number of related policies and procedures that you should be aware of including:

- Hay job evaluation policy and procedure
- GLPC job evaluation policy and procedure
- Appointments policy and procedure
- Appointments policy and procedure for chief officers
- Market supplements policy and procedure
- Moving home policy and procedure
- Redundancy payments policy
- Starting salaries and incremental progression policy and procedure
- Acting up and additional duties policy and procedure

The policies not published with this report are available from the HR department at Wiltshire Council on request.

Policy author	HR Policy and Reward Team – AG
Policy implemented	28 th February 2012
Policy last updated	December 2012

This page is intentionally left blank