

REPORT TO GENERAL PURPOSE COMMITTEE

12 November 2003

Review of No Pay Protection Arrangements in the Council Following Organisational Change or Redeployment To a Lower Graded Post.

Report of the Director of Human Resources & Diversity

1. Summary

- 1.1 This report considers whether the Council should review its policy of no pay protection for staff, following organisational change or redeployment to a lower graded post. It also proposes that the Director of Human Resources and Diversity be given the authority to approve individual cases for pay protection based on the criteria outlined in paragraphs 9.3, 9.4, 9.5, 9.6 and 9.7.

2. Recommendations

- 2.1 The General Purposes Committee is asked to agree the following recommendations: -
- That Human Resources undertake a full review of the no pay protection policy, which currently applies in the Council following organisational change. This review to be completed no later than 31st December 2003.
 - That the Director of Human Resources and Diversity report back to General Purposes Committee on the findings stemming from the review.
 - That until such time as the review is completed, and the recommendations arising from the review are implemented, the Director of Human Resources and Diversity should be authorised to approve individual cases for pay protection, based on the criteria outlined in paragraphs 9.3, 9.4, 9.5, 9.6 and 9.7 of this report.
 - That where pay protection is approved, it will last for a one-year period in all cases. During that one-year period only, the individual will have no entitlement, either to the annual pay award, or to incremental progression.

3. Financial Implications

- 3.1 The report proposes that the Council agrees a policy of a limited amount of pay protection. The financial implications will depend on the

circumstances of the re-organisation to which it is applied. Pay protection implies paying individuals more than they would otherwise be entitled to prior to the re-organisation, but no more than they are currently being paid. The actual financial costs may depend on a range of other factors, including the cost to the Council of losing or replacing skilled and knowledgeable staff at a time of turbulence, which the pay protection scheme may well mitigate.

- 3.2 There is no central budgetary provision to fund pay protection, nor are there any automatic arrangements for clawing back centrally any reduced costs created by any re-organisation. It is for service areas to implement re-organisations within existing budgetary provision or to seek approval for additional provision within the Council's overall budgetary process and consistent with Financial Regulations and Standing Orders. Pay protection is just one factor that has to be taken into account by managers when proposing staff re-organisations.

4. Legal Implications

- 4.1 Where applications for pay protection are approved the pay protection arrangements for individual employees should be incorporated in their contracts of employment so as to avoid disputes concerning how it applies in their case e.g. concerning whether or not they will receive the annual pay award during the one year protection period".

5. Background

- 5.1 Up until approximately 1989 Brent Council did provide pay protection to individuals who were ringfenced to lower paid posts following reorganisation, but then for organisational and financial reasons it took a decision to abolish the pay protection completely. Therefore, since that time, it has been custom and practice for there to be no pay protection for individuals who are offered posts on a lower grade following a restructuring, or as a result of the redeployment process. Every effort is made to assimilate ringfence or match the employee to a post on the same grade as the substantive post. Where that is not possible, the individual may be offered a post on a lower grade if it appears that this constitutes suitable alternative employment. As there is no scheme of pay protection in operation, if the employee accepts a job on a lower grade they are paid on the scale appropriate to the new job. The employing manager may apply a scale point above the minimum in accordance with the usual criteria for appointments above the minimum of the scale.
- 5.2 It would seem that historically some service areas continued to offer pay protection in individual cases only. This report seeks to regularise that practice.

6. Reasons for the Review

- 6.1 For good organisational and financial reasons it is important not to interfere with the Council's general principle of no pay protection following organisational change or redeployment to a lower graded post, without completion of a full review of the cost or benefits associated with any change. Therefore this paper does not propose the introduction of blanket application of pay protection at this point in time.
- 6.2 However it is also important to note that there have been a small number of cases where the rigid application of no pay protection following reorganisation has led to acute difficulties for management in effectively implementing organisational change. It therefore seems timely to seek to address those concerns in a positive way.
- 6.3 In exceptional circumstances, and without setting precedents or introducing inconsistencies there may be sound arguments that could be made for introducing some form of flexibility so that the no pay protection rule is not applied so rigidly as it is at present. In doing that it would be sensible to fully consider all the issues in each particular case, take account of individual circumstances, show flexibility if necessary, and act reasonably in each case. For example it may be difficult to justify being totally rigid in terms of applying the no pay protection rule, if the employee is seriously losing out financially.

7. Types of Pay Protection

- 7.1 Most other London Authorities apply some form of pay protection. There are various models of pay protection in use. The most common are those that seek to enable the employee to adjust to a lower level of earnings over a transitional period, the length of which is based on the employee's length of service, or on the extent of the financial difference, or set for one time period for all - e.g. one year after which the individual's salary drops to the rate for the new job.
- 7.2 The other most common type of pay protection is to freeze the salary at the point at which the employee is placed in the lower graded job, and only when the spinal column point of the new job reaches the frozen salary is the pay unfrozen. This method of pay protection is used in the Council to support those employees who are no longer entitled to performance related pay (PRP) because of promotion, but who would still lose out financially were the PRP to cease. Similarly where employees in receipt of Inner London Weighting have a change of employment status the Inner London weighting is frozen.

8. Further Work

- 8.1 Over the coming years, the Council will face continuous change and must be able to react and reconfigure its services in a timely and cost effective manner. It is important therefore, that the policies and procedures that are in place support managers in providing excellent

front line services by motivated and committed staff with minimal disruption to those services.

8.2 Equally, as a good employer, the Council should consider supporting staff who are affected by change for a short period of time to allow them to adjust to the new arrangements.

8.3 A more detailed review is required therefore, to:

- a) Consult with managers
- b) Consult with the Council's recognised trades unions
- c) Establish the likely cost/benefits associated with changing the current protection arrangements
- d) To make formal recommendations

9 Interim Arrangements

9.1 It is proposed that pending the completion of the review and the implementation of any recommendations arising from it, a framework be put in place on an interim basis to consider individual cases on their merits.

9.2 Subject to paragraph 9.7, protection will not apply where an individual accepts a post graded one grade lower than their current post.

9.3 Where an individual will suffer significant financial loss by accepting a post at a lower grade as a result of restructuring or redeployment, i.e. two or more grades lower than the current post, then pay protection arrangements will apply.

9.4 The Service Area Director must be in support of applying pay protection in the individual case. He/she must make an explicit case in writing requesting that protection be applied. The reasons for supporting pay protection in the individual case must be given, together with the following details, which should be provided to the Director of Human Resources and Diversity for her consideration.

- Details of the employee's substantive post
- Details of the employee's salary associated with the substantive post
- Details of the job in which the employee is likely to be placed in the new structure, or as a redeployee.
- Details of how the employee's pay is likely to be reduced
- Details of any special circumstances e.g. personal or organisational

- 9.5 In the interests of consistency, the Director of Human Resources and Diversity will consider the details of each case independently, and may decide to meet with the Service Area Director to clarify any aspects of the individual case. Having done that, the Director of Human Resources and Diversity will decide whether or not to give her approval for the pay protection to apply.
- 9.6 Should the case for pay protection be accepted, the following pay protection arrangements will apply. Protection will last for a period of one year from the date the individual starts in the new post. Individuals will be paid at the maximum of the grade immediately below that of their former substantive post. During that one-year period only, the individual will have no entitlement, either to the annual pay award, or to incremental progression. At the end of the protected period, the manager may apply a scale point above the minimum point of the current substantive grade for the post, in accordance with the Council's Guide for Managers on Handling Re-organisations and Redundancy Situations.
- 9.7 Where the criteria set out in paragraph 9.3 is not met, but where exceptional circumstances apply, in that it is determined a significant risk to the continuing provision of services can be shown to exist, the Director of Human Resources and Diversity may agree to the payment of salary protection at the current grade, for a period of one year, subject to the restrictions outlined in paragraph 9.6 both during and at the end of the protected period. At the end of this period, individuals will then move to the substantive grade for the post.
- 9.8 Where pay protection applies, and there is redeployment to a new service area, the new service area will be required to meet the cost of any pay protection for the one-year period.
- 9.9 These arrangements will apply until such time as the full review of the no pay protection arrangements is concluded, and revised arrangements are implemented.

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