

Staff Side

PP/06/132  
Executive  
17<sup>th</sup> October 2006

## **JOB EVALUATION**

### **Briefing Paper of the Director of Personnel and Performance**

#### **Recommendation:**

**That the Executive approves the option supported by the Personnel Partnership, CMB and CJCNC as DCC's revised pay and grading structure**

#### **Introduction and Context**

1. Stemming from the NJC National Agreement on Pay & Conditions of Service in 1997 and historically from the Labour Party manifesto of 1979, the central Government directive to pursue equal pay resulted in a national programme of job evaluation.
2. The positive implementation of Job Evaluation allows:-
  - Completing the harmonisation of terms and conditions that started in 1997.
  - Recognition of traditionally low paid groups of staff providing vital community services.
  - Equal Pay Review finalised to provide an equality-proof, transparent pay structure.
  - Compensating employees for past inequality of pay and upgrading posts to reflect their worth to the organisation.
  - Promote DCC as best practice employer.
3. The need to conclude the implementation of this work was reinforced in 2004 with the National Joint Council Pay Agreement (commonly referred to as the three year pay deal) whereby all authorities yet to implement equal pay had to do so by April 2007. As part of this agreement Unions were to ballot their members to test whether Councils had made significant progress toward April '07 and for DCC the ballot results are as follows:-

Unison	-	66% in favour, 33% against
TGWU	-	55.5% in favour, 44.4% against
GMB	-	79.46% in favour, 20.54% against

Collectively, both employer and Unions believe that DCC has made significant progress and below is the preferred option to address this imperative.
4. Negotiations with the recognised trade unions (Unison, GMB and TGWU) commenced on 2 August, following a key milestone being reached whereby 50% of the Greater London Provincial Council (GLPC) Job Evaluation questionnaires had been jointly quality assured. This was always a pre-requisite to engaging in any meaningful discussion around costs and protection measures.



5. In the ensuing weeks of August, a number of possible pay and grading models (called Trial Options) were explored by the Joint Review Group (a negotiating group comprising JE project team advisers, all three unions and a lead negotiator for DCC). Four potential options were narrowed down to one preferred model as each was tested for costs, initial equality proofing, impact on staff and financial and legal constraints.
6. **Costs** - These are: the cost of implementation on day one, the cost of protection, the arrears of salary due to the effective date being in the past and the cost of equal pay compensation to satisfy the Equal Pay Act 1970, the Single Status Agreement 1997, and the NJC Agreement 2004. The Education Act 2002 also refers specifically to Job Evaluation and has a direct bearing on this project and hence cost.
7. **Equality Proofing** – Any proposed pay and grading structure must meet certain equal pay and equality criteria. The preferred option has been carefully tested, using methodology which is jointly recognised and is being further endorsed by the Advisory, Conciliation and Arbitration Service (ACAS).
8. **Impact on Staff** – As a result of implementing JE all NJC staff will be affected and defined as follows:
  - Green Circled** - employees whose current salary is below the salary minimum of their new grade.
  - Front-line staff in Schools, Social Care Services and DDS represent a significant majority (85%) of the Green-circled jobs that will benefit from the equal pay review.
  - Red Circled** – employees whose current salary is above the salary maximum of their new grade.
  - Support Services staff, such as County Hall based roles, represent the majority of Red-circled jobs resulting from the equal pay review. These are dispersed across all Directorates.
  - White Circled** – employees whose current salary is unaffected by their new grade on 1<sup>st</sup> April 2007.
9. **Financial Constraints** – The limit of expenditure that DCC can reasonably place on the overall financial impact of any new pay and grading structure.
10. **Legal Constraints** – Recent settlements and findings in Tribunal have placed extreme pressure on both employers and unions to seek legal opinion on any revised pay and grading structure that is driven by equal pay. The three unions have stated during negotiation that any recommended option will need to be verified by their legal advisers. It will be necessary for DCC to do likewise in order to defend any legal challenge from either individual members of staff or the growing 'no win no fee' lawyers who are watching such schemes with close interest.
11. DCC's approach to equal pay takes account of employment tribunal cases occurring since our JE project commenced. It is designed to minimise equal pay risk, the stress and enormous administrative burden that the employment tribunal process would bring to employees and the organisation.

## Key Progress

12. On 23 August the joint review group noted as part of the formal negotiations that the preferred option going forward to the CJC&NC and the ongoing work to finalise the costs and equality proofing constituted "significant progress". As a result, all three unions issued ballot notices for their September postal ballot advising members that they consider significant progress in accordance with the 2004 agreement has been made. This is a key message and is further supported in the series of joint communiqués being issued by the Chief Executive and TU Side Secretary.

## Risks and Issues

Whilst a lot has been achieved in recent weeks, there are certain risks and issues to consider:-

13. The County Council has been setting aside specific monies for the past six years to help to fund the cost implications of Job Evaluation (through an annual budget contribution of £1.7m and the establishment of a Transition Fund of £10.4m by the end of the current financial year). The Council also has a strategy to fund the one-off costs of Equal Pay Compensation through borrowing (over a period of 10 years, subject to the issue of the necessary Capitalisation Direction) and for funding the ongoing costs from annual cashable efficiency savings and the current ongoing budget contribution.
14. Ongoing Costs: Trial Option 3 (the preferred option) as currently modelled has green circle costs on an annual basis of £7.3m, reducing to £2.9m after 3 years when salary protection for red circled jobs ceases.  
  
The percentage of red-circled jobs is kept to what is believed to be the minimum in the proposed options. As these jobs are those of existing staff, budget provision for the salary protection is already included within the base revenue budget.
15. One-Off Costs: The cost of salary arrears since 1<sup>st</sup> April 2006 is £6.2m, to be funded from the Transition Fund. Equal pay compensation for the previous 6 years is estimated at £29.5m, to be funded by borrowing over 10 years, giving rise to Capital Financing Charges of approximately £4.2m p.a., reducing by £0.125m each year.
16. Schools: It is estimated that schools budgets will need to fund ongoing annual costs of £3.3m, reducing to £2.7m after 3 years. 1 year's arrears of pay will also need to be funded, amounting to £2.7m.
17. Recent settlements and Tribunal findings have highlighted the fact that, in agreeing that existing pay and grading structures are not equal pay compliant, employers leave themselves open to equal value claims for which the compensation is based on an award of six years pay differential.
18. The cost of successful appeals, for which allowance has been made, is based on benchmarked experience with other South West authorities who have implemented the GLPC scheme. The management of appeals from school-based staff is of critical importance to the integrity of the process. The Education Act 2002, or more specifically the staffing guidance under sections 35(8) and 36(8) of the Act state; "the LEA remains responsible for ensuring that the requirements of equal pay legislation are complied with. For this reason it is important that the LEA is consulted about issues of

pay and grading and that the LEA and governing body work together to find a solution that will both meet the school's requirements and be consistent with the authority's legal obligations. A decision made by one school may have implications for others within the same authority."

19. It is quite clear that, in any appeal or equal pay claim DCC would be the legal employer and as 47% of the staff covered by the new pay and grading structure are school based, a letter has been sent to all schools from the Director of CYPS stating that all school-based staff must be consulted in the exercise whereby Head Teachers will assign individual employees to one of the GLPC profiles and that any appeals will be heard through a jointly agreed process. While it is understood that Heads and Governors are keen to see the Job Evaluation exercise applied fairly and objectively, this centralised approach is not one that Devon schools are used to or familiar with.
20. The timing of responses from schools regarding the exercise to best fit staff to the school GLPC profiles is also key to the project critical path. A series of 14 clinics are being run in October to help Head Teachers with this work.
21. The notification of outcomes to 17,000 staff and subsequent gross to net pay calculations are dependent upon transactions being carried out on the existing DCC payroll system. The timing of the JE project is such that it is unlikely that the new payroll environment will have been sufficiently tested to accommodate this substantial task.
22. The role of Directorate Champions and CJC&NC Management representatives will be a challenging one as they will have been seen to be very much a part of the recommended way forward and therefore could suffer undue criticism from peer colleagues as well as staff for not better protecting costs and/or the status of certain families/groups of staff. Trades Union representatives are preparing themselves for similar challenges from their members and recognise that, for legitimate claims under Equal Pay legislation, six years is the maximum compensation that can be claimed and also recognise that DCC's offer to pay Equal Pay Compensation is likely to negate any potential legitimate Equal Pay claims and will advise their members accordingly.
23. Negotiations are continuing with the Inland Revenue and there is likelihood that we will reach agreement to apply a notional tax and NI rate to the arrears/compensation. This may be advantageous to DCC in reduced employer costs and make the calculations much simpler as one single rate of deduction will be applied to gross awards. These negotiations are ongoing and will need to be secured in a written agreement with Her Majesty's Revenue and Customs (HMRC). Cost calculations have allowed that this negotiation is successful.
24. A formal proposition has been made to the Local Government Pension Scheme stating that the compensation is an award in settlement of equal pay rather than arrears of salary. This means that employers' pension contributions would not be payable in relation to compensation payments. Early responses from LGPS are favourable and a formal reply is awaited. If the proposition is accepted this could reduce the cost of the six years award by as much as £4m due the employer's pension contributions being waived. The costings assume that this proposition will be successful. It is also advantageous to employees in that it does not damage their final salary pension prospects but improves the gross to net benefit for green circled staff.

25. The Director of Finance and IT has made an application to central Government for funds to capitalise a significant proportion of the costs of awarding equal pay compensation. The success or otherwise of this application will directly affect the affordability with regard to retrospective liabilities.

### **Summary and Next Steps**

26. Substantial data analysis, cost projection and negotiating has occurred since 2 August to keep the project on its critical path of implementation for April 2007. The option agreed at CJC&NC allowed the Union ballot to be held with a recommendation that "significant progress" has been made. The equality proofing will further refine the preferred option to ensure it is capable of satisfying legal and collective bargaining requirements. The overall costs include the cost of arrears and compensation and take up 70% of the total, deemed to be unavoidable.
27. Negotiations are continuing on a weekly basis. The JE Project Team will draw up detailed plans for issuing notices to staff in November, with briefing packs for Managers and Head Teachers to be able to handle the response.

A communication strategy has been formulated and will be run on a dynamic basis with support and direct input from members of staff from the Head of Corporate Communications Department.

*Heather Barnes,  
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Electoral Divisions: ALL

Local Government Act 1972

List of Background Papers:- None

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