

Report subject	Pay and Reward progress update
Meeting date	10 December 2024
Status	Public Report
Executive summary	<p>Since the creation of BCP Council through the merger of the four preceding councils in April 2019 we have been working with the trade unions to negotiate a new Pay and Reward package which aligns pay and conditions across all colleagues.</p> <p>This report sets out the results of the recent trade union ballot process and outlines next steps.</p>
Recommendations	<p>It is recommended that:</p> <p>Cabinet note the trade union ballot outcome</p> <p>Cabinet approve option 2 of the proposed process flowchart (Appendix 1) and the commencement of collective consultation under s188 of the Trade Union and Labour Relations (Consolidation) Act 1992 ('TULRCA'), which is a statutory obligation where an employer is proposing to dismiss 20 or more employees</p>
Reason for recommendations	BCP Council has sought to reach a collective agreement with its recognised trade unions since February 2023 but currently such an agreement has not been achieved. BCP Council therefore now seeks to commence collective consultation under s188 to progress its proposals.
Portfolio Holder(s):	Councillor Jeff Hanna, Portfolio Holder for Transformation and Resources
Corporate Director	Graham Farrant, Chief Executive
Report Authors	Sarah Deane, Director of People and Culture
Wards	All wards

Classification	For Information
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Background

1. We have been working towards a new Pay and Reward offer, restructuring our basic pay and reward arrangements since the four preceding councils were merged to form BCP Council in 2019 to provide a fair pay and grading structure for all of our staff.
2. At the point of transfer under Local Government Reorganisation there were four sets of terms and conditions, plus a range of different local arrangements or separate conditions, and four different sets of job evaluation and job descriptions, with three different outcomes for each service. There have also been a number of transfers into the Council from previously externalised services, which bring separate terms and conditions.
3. The Pay and Reward project will introduce a single pay structure and consistent conditions to address any inconsistencies and inequalities in pay across the organisation from the merger of the four preceding councils, ensuring that colleagues are fairly and equally compensated for their work. Colleagues doing the same level of work will receive equal pay.
4. The progress of the project was reported to the Overview and Scrutiny Board on the following dates:

4 January 2021

23 August 2021

6 February 2023

12 June 2023

13 May 2024

16 July 2024

27 August 2024

23 September 2024

Cabinet were informed of the project progress on the dates below:

25 October 2023

10 April 2024

17 July 2024

12 August 2024

4 September 2024

5. A new job evaluation method 'Hay' will be introduced replacing the current Greater London Provincial Council (GLPC) scheme. Alongside this, BCP Council will offer a new set of Terms and Conditions and an enhanced benefits package with the intention of enabling BCP Council to be an attractive employer.

6. A prolonged collective bargaining process with the recognised trade unions, GMB and UNISON has taken place since local government reorganisation. This process, under the Councils Recognition/Collective Bargaining Agreement means that we have to obtain support from both trade unions, as separate entities, before we can proceed to implement this change. Agreement of only one trade union, even if it forms the majority of trade union members, is not sufficient to proceed.
7. Two union ballot processes were held prior to the summer, with, regrettably, both of them being rejected by our colleagues represented by GMB, whilst UNISON members accepted the offer on the first ballot. One major reason given for the ballot being rejected was that individuals wanted to know their personal pay outcome before considering the offer and this became the only apparent block to approval, therefore we decided to release the individual pay outcomes in which **85%** of colleagues would experience either no change in their salary, or an increase, with only 15% seeing a decrease, and pay protection until June 2026, by which time only 9% would see an actual reduction in salary due to the inflationary effect on the pay scales
8. In September 2024 all colleagues received a written illustration of their proposed new pay band together with details of the minimum and maximum salary for that band. Releasing this information enabled GMB to go back to their members in a third ballot. However as releasing the pay outcomes was information that had not previously been available to colleagues, UNISON also wanted to re-ballot their members.
9. GMB and UNISON held a further ballot between the following dates:
GMB: 8 October to 14 November 2024
UNISON: 17 October to 14 November 2024
10. Results of the ballot are as follows:

	Vote to Accept	Vote to Reject	Turnout
UNISON	59%	41%	61%
GMB	28%	72%	73%

Next steps:

11. These ballot results mean that under the collective bargaining process we cannot proceed as we do not have the agreement of both trade unions. We are obviously very disappointed with this outcome and understand the frustration and anxiety that the ongoing delay will create for our colleagues. This also means further delay to our ability to implement a single pay structure and align pay outcomes for our staff.

Whilst we have remained committed to working constructively with both GMB and UNISON through collective bargaining, we feel that we have now exhausted all non-statutory discussions with a view to reaching a collective agreement and are working through the final stages of the procedures outlined in the Councils Recognition Agreement in a further attempt to address concerns and reach an agreement.
12. We have continued to consider other options alongside ongoing negotiations with the trade unions in the event that this outcome should happen. We have always said dismissal and reengagement would be the option of the last resort for the Council if negotiations should fail to achieve an agreed outcome. We had always

hoped to avoid this option through positive and exhaustive negotiation but regret that there may now not be any further option available given that the Council has a legal obligation to comply with equal pay laws and there are no additional finances available to enhance the existing offer.

13. We will continue to explore a negotiated solution and hope that this is successful. As previously explained, if this is not possible, the Council may need to follow a process of dismissal and re-engagement to bring about the new, fair pay structure for our staff. To pave the way for this process, BCP Council should now seek to commence collective consultation under s188 of the Trade Union and Labour Relations (Consolidation) Act 1992 ('TULRCA'). This provision requires a minimum 45 days' consultation.
14. The process involves a period of collective consultation with the trade unions to provide notice of the potential for those future dismissals which might be required where colleagues do not voluntarily agree to accept a direct offer of the proposed changes, and which would be accompanied by an offer of immediate re-engagement on the terms set out in our offer. Consultation with trade unions will also explore ways to avoid/reduce the potential number of dismissals, whilst also and primarily allowing the continuation of negotiation and discussion on ways to reach collective agreement to avoid them altogether.
15. If agreement cannot be reached with the trade unions it may be necessary to consult individually with our colleagues to ascertain who would wish to accept the offer of the new terms. This would mean writing to them with details of the proposed changes to their contracts and providing the opportunity to agree and sign up to these changes. If, however, individual agreement is not reached and colleagues do not want to voluntarily accept the changes, BCP Council would then need to consider the process of dismissal and reengagement as outlined above with new terms and conditions offered for those individuals ensuring that no break in service occurs. This is a huge undertaking which will require significant resources to be committed to the processing of individual consultation and will undoubtedly heighten tensions with the trade unions.
16. This process will also mean further delays to the date of implementation as the whole process needs to be completed before implementation can take place even for those who wish to sign up voluntarily at an earlier date.
17. Appendix one provides a flowchart of the process steps to follow and gives a very approximate indication of the associated timeline. There are two options specifically relating to the timing of when s188 consultation commences. The timeline will be impacted by the preferred option. Option 1 seeks to exhaust further routes in attempts to reach agreement **prior** to the commencement of starting consultation under s188. Option 2 seeks to commence consultation immediately and allow both processes to run concurrently. It is likely that industrial relations will operate more smoothly through option 1 but this adds further delay to what is already a long outstanding issue for the Council and we are keen to resolve the pay and reward arrangements.
18. Timescales will inevitably vary depending on whether agreement can be achieved with the trade unions in the early stages and if not, will be dependent on how many colleagues choose to agree voluntarily to the new terms. The number of potential dismissals and subsequent appeals will not be known until that time. The indicated timeline must therefore only be used as a guide and could be subject to change as

the process is complex and time consuming with over 5000 colleagues of whom we will need to consult individually with.

Summary of financial implications

19. The rejection of the offer means that the implementation of the project will be delayed. The table below sets out the current MTFP position as agreed in the report to Cabinet of 4 September 2024. It also illustrates the impact on the MTFP of the project being delayed until an approximate implementation date of 1 March 2026 which is the current best estimate but likely to be subject to further change. Both tables reflect the financial impact of the protection period ending on the 30 June 2026 as per the existing offer. Cabinet should be reminded that these figures are estimates, calculated from the individual appointments and salaries of colleagues as they were known on 17 August 2024. However, it is worth noting that with an average turnover of 11% it is likely that some 10/11 people per week leave or join the council's workforce, which will change the numbers. The costs are also subject to individual career development, incremental progression, promotions and appointments, which change daily across the Council.

Current MTFP	2024/25	2025/26	2026/27	2027/28	Total
	£000s	£000s	£000s	£000s	£000s
Pay & grading implementation - 1 April 2025 implementation - Protection ends 30 June 2026 - includes 24/25 pay award	Base	Estimate	Estimate	Estimate	Estimate
Annual incremental Variance	1,060	2,762	(1,636)	(545)	1,641
2024/25 Amount not used carried forward 25/26		(1,060)	1,060		
Annual incremental Variance	1,060	1,702	(576)	(545)	1,641

Impact of no vote on the MTFP	2024/25	2025/26	2026/27	2027/28	Total
	£000s	£000s	£000s	£000s	£000s
Pay & grading - 1 March 2026 implementation - Protection ends 30 June 2026 - includes 24/25 pay award	Base	Estimate	Estimate	Estimate	Estimate
Annual incremental Variance	1,060	(703)	1,829	(545)	1,641
2024/25 Amount not used carried forward 25/26		(1,060)	1,060		
Annual incremental Variance	1,060	(1,763)	2,889	(545)	1,641

Variaance between No Vote and previous MTFP	0	(3,465)	3,465	0	-
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20. In addition, a further additional one-off amount will be needed to provide the support to deliver this programme of work, and the cost of these will be factored into next years budget. Further details can be found at confidential appendix 2. The work required is significant. It is unknown as to how many colleagues may choose not to voluntarily accept the proposed offer but there will be a need for all levels of managers and a large project team to ensure that the correct legal processes are followed and that we move as swiftly as possible through the process to avoid ongoing delays and further damage to the morale of the workforce.

Summary of legal implications

21. The Council is required to implement a method of job evaluation which complies with the provisions of the Equality Act 2010.
22. In delivering a job evaluation study, the Council is required to enter into negotiations and consult with its recognised Trade Unions in accordance with Trade Union and Labour Relations (Consolidation) Act 1992
23. Failure to implement a robust job evaluation methodology exposes the Council to a risk of potential litigation in respect of equal pay and discrimination allegations.
24. Upon implementation of the new job evaluation scheme and pay structure, a number of potential claims may arise:
 - Equal pay claims for up to a maximum of 6 years' back pay may arise from those whose pay increases.
 - In addition, there is a prospect of claims arising from the practice of pay protection.
 - There may also be consequential "piggyback" claims from those of the opposite gender to those who pursue the initial claims.
 - There is also a potential for indirect sex discrimination claims to arise from the practice of pay protection if this should be afforded primarily to those in roles dominated by men.
25. In addition to the implications set out in paragraph 25 above, the following may arise from the process of dismissal and re-engagement:
 - Claims of unfair dismissal and constructive dismissal.
 - Claims for breach of contract.
 - Claims for unlawful deductions from wages.
 - Claims for inducement.
 - Claims for protective awards.
 - Industrial action.
 - The raising of internal disputes.

Summary of human resources implications

26. The process of reaching implementation for pay and reward has had a significant impact on our workforce. Much work is needed to raise levels of engagement and support colleagues through the transition period.

Summary of sustainability impact

27. This section is not applicable to this report

Summary of public health implications

28. There are no public health implications arising from this report.

Summary of equality implications

29. A full EIA has been completed to date

Background papers

None

Appendices

Flowchart showing process options and approximate timeline for next steps

Resourcing costs - confidential