

BRISTOL CITY COUNCIL

HUMAN RESOURCES COMMITTEE

19th FEBRUARY 2009

Report of: Head of Human Resources

Title: Housing Caretaking Review - Tied Accommodation Benefit Calculation (further report)

Ward: City Wide

Officer Presenting Report: Mike Cook - HR Adviser

Contact Telephone Number: (0117) 922 3076

RECOMMENDATION

Approve the proposed calculation principles for pay protection and “buy out” in respect of tied accommodation for Housing Caretakers, to be implemented by no later than 31st May 2009.

Summary

The report, which is submitted to this Committee in response to a resolution at its previous meeting, outlines the value of components that make up the current benefit for tied accommodation payment for Housing Caretakers. It also considers the principles around awarding benefit protection on the basis of :

1. the agreement
2. average benefits as per the residential caretaking workgroup
3. actual individual benefits

The significant issues in the report are:

The value of benefit varies per residential employee which will vary levels of pay protection and “buy out” offered, as set out in Appendix A.

Calculations are to be based on best available data at the time of implementation.

1. Policy

- 1.1 Recommendations seek to clarify calculations for changes to Housing Caretakers in line with the Tied Accommodation Policy and Pay protections processes.

2. Consultation

2.1 Internal

Trade Unions - see Appendix B

2.2 External

N/A

3. Context

- 3.1 A report was taken to Human Resources Committee on 8th January 2009 outlining a proposal for protection of tied accommodation benefits for employees within the Housing Caretaker Service when implementing changes under the Tied Accommodation policy and Review of Caretaking Services.
- 3.2 The following was agreed, with the exception of the amounts referred to in the local agreement for pension emoluments (sub paragraph 3.4(b) ii) refers):-

a. Caretakers retaining residential posts. (28 staff)

- i. Apply the new benefits (in line with previous HR Committee resolution)
- ii. Continue to pay water rates and utility bills for three year period.
- iii. Continue to pay remaining 25% rent, 25% service and CCTV charges for three year period.
- iv. Cease PAYE Settlement agreement - taxable benefits (utilities bills) would need to be notified to tax office via P11D
- v. Cease pension emolument (in line with previous HR committee resolution)
- vi. Cease payment of laundry and digital tv charges (in line with previous HR Committee resolution)

- 3.3 At the end of the three year protected period, residential caretakers would revert to the level of benefits outlined in Tied Accommodation policy and no further compensation or protection will apply.
- 3.4 Individual employees could choose to accept an up front payment equivalent to eighteen months of the difference between the notional value defined within the local agreement for emoluments and the value of the benefits under the Tied Accommodation policy (equal to £1,453) as an alternative to receiving (ii) and (iii) as full and final settlement. Should employees who choose this option leave, following payment, they would not be expected to repay any of this amount.

b. Caretakers and Site Team Leaders not retaining their residential status (19 staff).

- i. Apply pay protection to the notional value as determined in the local agreement for the pension emolument (currently £4,087.75 pa) for a three year period. Annual pay awards will not be applied during protection period.
- ii. Cease payment of all bills and issue an introductory tenancy.
- iii. Cease pension emolument.
- iv. Employees to be responsible for tax and NI on pay protection.

c. “Buy Out” Option for staff not retaining residential status

Individual employees could choose to accept an up front payment equivalent to eighteen months of the notional value defined within the local agreement for emoluments (equal to £6,131) as an alternative to receiving (i) as full and final settlement. Should employees who choose this option leave, following payment, they would not be expected to repay any of this amount.

- 3.5 It was also agreed that the approaches to benefit protection will only apply to employees who remain within the caretaking service or are redeployed to another post within Bristol City Council and that this option will not apply to any employee who leaves the Council on the grounds of redundancy.
- 3.6 The Committee agreed the proposals set out above in paragraphs 3.2 -

3.5 subject to a further report on the calculation of benefits of caretakers affected. The caretakers affected by the calculation of benefits are those caretakers who do not retain their residential status and those who choose the buy out option.

3.7 Committee further resolved that the “buy out” would be the equivalent to two years pay protection, and that tax and national insurance contributions would not be considered in the calculation of protection.

4. Proposal

4.1 In determining the calculation of benefit protection for staff who do not retain their residential status or choose the “buy out” option, 3 alternate methods could be used. These are:-

- i. Protection as per the Pensionable Emolument Agreement
- ii. Protection based on average benefits for the residential caretakers' workgroup
- iii. Protection based upon the individual caretakers' actual level of benefits

4.2 Option iii is preferred, on the basis that it compensates each caretaker for their personal loss. The proposed calculations for individual costs for tied accommodation benefits would therefore be based on the following components;

- i. Rent - 100% of the existing 2008/09 rent of the residential property as listed on Anite.
- ii. Service Charge - 100% of existing 2008/09 charge as listed on Anite.
- iii. Laundry - 100% of existing 2008/09 charge where applicable as listed on Anite.
- iv. Digital TV - 100% of existing 2008/09 charge where applicable as listed on Anite.
- v. CCTV - 100% of 2008/09 charges as listed on Anite
- vi. Energy - depending on property costs will be one of either;
Clorius Heating - 100% of actual paid costs based on 2007/08 data.
Electricity - 100% of 2007/08 costs supplied by Energy Management
Gas - 100% of 2007/08 costs supplied by Energy Management
- vii. Water/Sewage - 100% of 2007/08 costs supplied by Energy

- viii. Council Tax - Management
75% of 2008/09 costs supplied by Local
Taxation

The above shows an example of how current figures are derived in appendix 1. Best available data at time of implementation will be used when calculating pay protection or “buy out” figures.

- 4.3 The individual data as outlined above is contained in Appendix 1. The range of costs is £3,817 to £6,442 per annum.
- 4.4 Variations in values outlined in Appendix A, are due to differences in;
- property size/type
 - location
 - type of energy supply
 - energy usage
- 4.5 In a small number of cases however, information on electricity usage is only available for a 3 year period. It is proposed that the actual benefit will be calculated using an annual average for that caretaker. In one other case no information on electricity usage is currently available. The utility company have been requested to issue an up to date bill, and the annual cost will be calculated on a pro-rata basis as set out above. If billing information cannot be provided an average usage figure for the property type will be used.

5. “Buy Out” Option

- 5.1 As an alternative to pay protection employees are to be offered the option to take a 'buy out' based on the following calculation.
- a. Employees remaining as residential could choose to accept an up front payment, as an alternative to pay protection. The up front payment will be equivalent to the value of two years of the difference between the employees current actual annual cost and the current annual cost of the benefits defined under the Tied Accommodation policy. “Buy out” values range between £2,328 to £5,815.
 - b. Employees losing residential status but remaining in employment with Bristol City Council could choose to accept an up front payment equivalent to two years of the full annual pay protection value, in full and final settlement. “Buy out” values range between

£7,634 to £11,696.

- 5.2 This option, as previously agreed by this Committee, will only apply to employees who remain within the caretaking service or are redeployed to another post within Bristol City Council. This option will not apply to any employee who leaves the Council on the grounds of redundancy. Should employees choose the 'buy out' option and subsequently leave the employment of the Caretaking Service or Bristol City Council, they would not be expected to repay any of this amount.

6. Other Options Considered

- 6.1 Other options were outlined in report submitted to HR Committee on 8th January 2009
- 6.2 In particular, Members resolve that (Resolution 3 and 5) “the 'buy out' would be equivalent to two years pay protection payments (paragraph 8.1(c) of the report refers)” and “that Bristol City Council would not protect tax and national insurance contributions for any employees”.

7. Risk Assessment

- 7.1 This calculation is specific for the tied accommodation benefits.

8. Equalities Impact Assessment

- 8.1 Detailed equalities impact assessment outlined in report submitted to HR Committee for 8th January 2009

Legal and Resource Implications

Legal:

As stated within the Housing Caretaking Review - Tied Accommodation Report (8th January 2009) protection based upon the individual caretakers' actual level of benefits will result in a difference in treatment between the predominantly male Residential Caretakers and the predominantly female Sheltered Scheme Managers. This exposes the Council to the risk of equal pay/sex discrimination claims. In order to avoid the risk of such claims the option of protection as per the Pensionable Emolument Agreement should be followed. This would result in both the Residential Caretakers and the Sheltered Scheme Managers being treated in the same way.

Advice from Husinara Islam on behalf of Head of Legal Services

Financial:

(a) Revenue:

The HRA positively contributes to this service charge to the value of £800k in 2007/08. This review of service provision is looking to reduce this positive contribution and review how the service is provided. The full extent of the savings will be included in the business case when this is reported to the Director of Neighbourhoods, but it is hoped that this will be reduced by over £400k per annum in future years once pay protection has finished. The maximum cost (based on current figures) if all staff who were able to, chose to take the “buy out” option would be £293k in total, whereas if all staff chose to take the pay protection over 3 years the maximum cost would be £440k in total.

Claire Burston - Finance Team Manager (HRA)

(b) Capital: N/A

Land: N/A

Personnel: As set out in paragraphs 4 and 5 above.

Appendices:

Appendix A - Caretaking Employees Residential Charges

Appendix B - Trade Union comments

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers: None

APPENDIX A

Residential Caretaking Staff
January 2009

| No Beds | Type | RENT 08/09 | SERVICE CHARGE 08/09 | LAUNDRY 08/09 | DIG TV 08/09 | Clorius heating total 07/08 | Electricity 07/08 | Gas 07/08 | Water 07/08 | Sewage 07/08 | CCTV 08/09 | 75% COUNCIL TAX 08/09 | Current Emolument Cost | New Tied Accommodation benefit value | 2yr Buy out - remaining residential | 2yr Buy out - ceasing residential |
|---------|------|------------|----------------------|---------------|--------------|-----------------------------|-------------------|-----------|-------------|--------------|------------|-----------------------|------------------------|--------------------------------------|-------------------------------------|-----------------------------------|
| 3 | w/u | 2967.36 | 408 | 61.92 | | | | 237 | 207 | 230 | | 864.69 | £4,975.97 | £3,396.21 | £ 3,159.52 | £ 9,951.94 |
| 2 | m/s | 2484.96 | 408 | 61.92 | 33.12 | | 1594 | | 118 | 157 | | 741.16 | £5,598.16 | £2,910.88 | £ 5,374.56 | £ 11,196.32 |
| 3 | m/s | 2856.48 | 408 | 61.92 | 33.12 | 420.53 | | | 144 | 198 | | 741.16 | £4,863.21 | £3,189.52 | £ 3,347.38 | £ 9,726.42 |
| 2 | m/s | 2583.84 | 408 | 61.92 | 33.12 | 283.19 | | | 134 | 182 | | 741.16 | £4,427.23 | £2,985.04 | £ 2,884.38 | £ 8,854.46 |
| 2 | m/s | 2492.64 | 408 | 61.92 | | 249.91 | | | 134 | 182 | | 741.16 | £4,269.63 | £2,916.64 | £ 2,705.98 | £ 8,539.26 |
| 2 | m/s | 2492.64 | 408 | 61.92 | 33.12 | 163.15 | | | 134 | 182 | | 741.16 | £4,215.99 | £2,916.64 | £ 2,598.70 | £ 8,431.98 |
| 3 | w/u | 2861.76 | 408 | 61.92 | 33.12 | | | 416 | 168 | 236 | 191.04 | 741.16 | £5,117.00 | £3,336.76 | £ 3,560.48 | £ 10,234.00 |
| 2 | w/u | 2861.76 | 408 | 61.92 | 33.12 | | | 754 | 148 | 205 | 191.04 | 741.16 | £5,404.00 | £3,336.76 | £ 4,134.48 | £ 10,808.00 |
| 1 | w/u | 2140.8 | 408 | 61.92 | 33.12 | | | 124 | 131 | 177 | | 741.16 | £3,817.00 | £2,652.76 | £ 2,328.48 | £ 7,634.00 |
| 3 | m/s | 2942.4 | 408 | 61.92 | 33.12 | | 1169 | | 149 | 206 | 111.84 | 741.16 | £5,822.44 | £3,337.84 | £ 4,969.20 | £ 11,644.88 |
| 2 | m/s | 2467.68 | 408 | 61.92 | 33.12 | | 925 | | 134 | 182 | | 741.16 | £4,952.88 | £2,897.92 | £ 4,109.92 | £ 9,905.76 |
| 3 | m/s | 2856 | 408 | 61.92 | 33.12 | 405.51 | | | 194 | 194 | | 864.69 | £5,017.24 | £3,312.69 | £ 3,409.10 | £ 10,034.48 |
| 3 | m/s | 2856 | 408 | 61.92 | 33.12 | 387.58 | | | 149 | 206 | | 864.69 | £4,966.31 | £3,312.69 | £ 3,307.24 | £ 9,932.62 |
| 3 | m/s | 2892.96 | 408 | 61.92 | 33.12 | 387.58 | | | 165 | 232 | | 864.69 | £5,045.27 | £3,340.41 | £ 3,409.72 | £ 10,090.54 |
| 4 | m/s | 3712.8 | 408 | 61.92 | 33.12 | 850.65 | | | 161 | 224 | | 864.69 | £6,316.18 | £3,955.29 | £ 4,721.78 | £ 12,632.36 |
| 2 | m/s | 2587.2 | 408 | 61.92 | 33.12 | 297.07 | | | 113 | 153 | | 741.16 | £4,394.47 | £2,987.56 | £ 2,813.82 | £ 8,788.94 |
| 2 | w/u | 2579.52 | 408 | 61.92 | 33.12 | 286.17 | | | 148 | 205 | | 741.16 | £4,462.89 | £2,981.80 | £ 2,962.18 | £ 8,925.78 |
| 2 | m/s | 2524.32 | 408 | 61.92 | 33.12 | 303.97 | | | 134 | 182 | 234.72 | 741.16 | £4,623.21 | £3,116.44 | £ 3,013.54 | £ 9,246.42 |
| 2 | m/s | 2524.32 | 408 | 61.92 | 33.12 | 343.4 | | | 134 | 182 | 234.72 | 741.16 | £4,662.64 | £3,116.44 | £ 3,092.40 | £ 9,325.28 |
| 2 | m/s | 2524.32 | 408 | 61.92 | 33.12 | | 1154 | | 134 | 182 | 234.72 | 741.16 | £5,473.24 | £3,116.44 | £ 4,713.60 | £ 10,946.48 |
| 2 | m/s | 2524.32 | 408 | 61.92 | 33.12 | 511.23 | | | 134 | 182 | 234.72 | 741.16 | £4,830.47 | £3,116.44 | £ 3,428.06 | £ 9,660.94 |
| 2 | m/s | 2524.32 | 408 | 61.92 | 33.12 | 208.28 | | | 134 | 182 | 234.72 | 741.16 | £4,527.52 | £3,116.44 | £ 2,822.16 | £ 9,055.04 |
| 2 | w/u | 2560.8 | 408 | 61.92 | 33.12 | 370.27 | | | 151 | 209 | | 741.16 | £4,535.27 | £2,967.76 | £ 3,135.02 | £ 9,070.54 |

APPENDIX A

| | | | | | | | | | | | | | | | | |
|---|-----|---------|-----|-------|-------|--------|---------|-----|-----|-----|--------|--------|-----------|-----------|------------|-------------|
| 3 | m/s | 2756.16 | 408 | 61.92 | 33.12 | | 1122.66 | | 149 | 206 | 234.72 | 741.16 | £5,712.74 | £3,290.32 | £ 4,844.84 | £ 11,425.48 |
| 2 | w/u | 2637.12 | 408 | 61.92 | 33.12 | | 1057 | | 68 | 80 | | 741.16 | £5,086.32 | £3,025.00 | £ 4,122.64 | £ 10,172.64 |
| 2 | m/s | 2323.2 | 408 | 61.92 | 33.12 | | 764 | | 139 | 190 | 234.72 | 741.16 | £4,895.12 | £2,965.60 | £ 3,859.04 | £ 9,790.24 |
| 3 | m/s | 2901.12 | 408 | 61.92 | 33.12 | | 563 | | 147 | 202 | | 864.69 | £5,180.85 | £3,346.53 | £ 3,668.64 | £ 10,361.70 |
| 2 | m/s | 2492.64 | 408 | 61.92 | 33.12 | | 1118.38 | | 134 | 182 | | 741.16 | £5,171.22 | £2,916.64 | £ 4,509.16 | £ 10,342.44 |
| 2 | w/u | 2656.8 | 408 | 61.92 | 33.12 | | 873 | | 113 | 150 | | 741.16 | £5,037.00 | £3,039.76 | £ 3,994.48 | £ 10,074.00 |
| 2 | m/s | 2502.24 | 408 | 61.92 | 33.12 | | 636.53 | | 148 | 205 | | 741.16 | £4,735.97 | £2,923.84 | £ 3,624.26 | £ 9,471.94 |
| 1 | m/s | 2124.48 | 408 | 61.92 | 33.12 | | 389 | | 148 | 112 | | 741.16 | £4,017.68 | £2,640.52 | £ 2,754.32 | £ 8,035.36 |
| 2 | w/u | 2479.2 | 408 | | 33.12 | | | 510 | 119 | 159 | | 741.16 | £4,449.48 | £2,906.56 | £ 3,085.84 | £ 8,898.96 |
| 2 | w/u | 2691.36 | 408 | | 33.12 | | 914 | | 119 | 159 | | 741.16 | £5,065.64 | £3,065.68 | £ 3,999.92 | £ 10,131.28 |
| 2 | m/s | 2484.96 | 408 | 61.92 | 33.12 | 238.19 | | | 134 | 182 | 234.72 | 741.16 | £4,518.07 | £3,086.92 | £ 2,862.30 | £ 9,036.14 |
| 2 | m/s | 2500.32 | 408 | 61.92 | 33.12 | 523.21 | | | 134 | 182 | | 741.16 | £4,583.73 | £2,922.40 | £ 3,322.66 | £ 9,167.46 |
| 2 | m/s | 2484.96 | 408 | 61.92 | 33.12 | | 1015 | | 118 | 157 | | 741.16 | £5,019.16 | £2,910.88 | £ 4,216.56 | £ 10,038.32 |
| 3 | w/u | 2907.84 | 408 | 61.92 | 33.12 | | 288 | | 149 | 206 | | 864.69 | £4,918.57 | £3,351.57 | £ 3,134.00 | £ 9,837.14 |
| 3 | m/s | 3012.96 | 408 | 61.92 | 33.12 | 480.62 | | | 144 | 198 | | 741.16 | £5,079.78 | £3,306.88 | £ 3,545.80 | £ 10,159.56 |
| 2 | w/u | 2492.64 | 408 | 61.92 | | | 914 | | 128 | 173 | | 741.16 | £4,918.72 | £2,916.64 | £ 4,004.16 | £ 9,837.44 |
| 1 | m/s | 2289.6 | 408 | 61.92 | 33.12 | 432.8 | | | 112 | 148 | 234.72 | 741.16 | £4,461.32 | £2,940.40 | £ 3,041.84 | £ 8,922.64 |
| 3 | m/s | 3371.04 | 408 | 61.92 | 33.12 | | 1238 | | 149 | 206 | 234.72 | 741.16 | £6,442.96 | £3,751.48 | £ 5,382.96 | £ 12,885.92 |
| 2 | w/u | 2365.92 | 408 | 61.92 | 33.12 | | 172 | 333 | 107 | 141 | 191.04 | 741.16 | £4,554.16 | £2,964.88 | £ 3,178.56 | £ 9,108.32 |
| 3 | m/s | 2992.8 | 408 | 61.92 | 33.12 | 345.49 | | | 138 | 189 | | 741.16 | £4,909.49 | £3,291.76 | £ 3,235.46 | £ 9,818.98 |
| 2 | m/s | 2492.64 | 408 | 61.92 | 33.12 | | 728 | | 134 | 182 | | 864.69 | £4,904.37 | £3,040.17 | £ 3,728.40 | £ 9,808.74 |
| 2 | m/s | 2517.12 | 408 | 61.92 | 33.12 | 172.15 | | | 134 | 182 | 234.72 | 741.16 | £4,484.19 | £3,111.04 | £ 2,746.30 | £ 8,968.38 |
| 3 | m/s | 2948.64 | 408 | 61.92 | 33.12 | 684.51 | | | 152 | 211 | 234.72 | 741.16 | £5,475.07 | £3,434.68 | £ 4,080.78 | £ 10,950.14 |
| 2 | w/u | 2524.32 | 408 | 61.92 | | | 1638 | 561 | 104 | 136 | 234.72 | 741.16 | £6,409.12 | £3,116.44 | £ 6,585.36 | £ 12,818.24 |
| | | | | | | | | | | | | | | | | |

Trade Union feedback on proposals.

Rowena has asked me to pass on the GMB's position.

We would like to see the figures calculated differently, as follows

Costs i to iv rent etc. to be based on charges 2009 – 2010

v Energy costs to be based on 2008 – 2009 bills

All these figures should be available by/in April.

Any 'Buy Out' should be based on 3X these figures rather than twice.

That anyone who elects for 3 years 'Pay Protection' should have the figures increased to allow for their having to pay tax and NI. This would ensure that the Pay Protection would fully compensate them for the loss of their emolument.

Doesn't Pay Protection for loss of salary cover the full amount lost. Isn't the protection you receive equal to the gross amount you lost rather than the net? If this is the case it should apply in this instance as well.

Jeff Sutton for GMB

Hi all

I fail to see with so many potential legal considerations flying back and forth, that we do not take a joint approach to the possibility of red-ringing those potentially affected by these radically impacting proposals.

Red-ringing has never to the best of my knowledge found a problem in the courts in the same way as varying policies in a perceived random way, lending the parties open to inequity of treatment, by direct or indirect discrimination.

The degree of impact is so high that in my view this would justify an exceptional and unusual approach. It would deliver savings over time, with a less dramatic impact on those at the heart of impact.

Just an open shared thought

Regards

Steve Preddy - Unite