

<b>Report title</b>	Removal of Mandatory Unpaid Leave	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Paula Brookfield Governance and Equalities	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	n/a	
<b>Accountable Director</b>	David Pattison, Chief Operating Officer	
<b>Originating service</b>	People Services	
<b>Accountable employee</b>	Sukhvinder Mattu Tel Email	Head of People Services 01902 553571 Sukhvinder.mattu@wolverhampton.gov.uk
<b>Report to be/has been considered by</b>	Core Services Strategic Executive Board	22 November 2023 28 November 2023

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### Recommendations for decision:

The Cabinet is recommended to:

1. Approve the proposal to end Mandatory Unpaid Leave (MUL) from April 2024 and for the Council to enter formal consultation with Trade Unions in this regard.
2. Approve that if agreement is reached after consultation with trade unions, employees will utilise their annual leave allowance for the three day Christmas closure period (Friday 27, Monday 30 and Tuesday 31 December 2024) and annually thereafter as per the current collective agreement.

### Recommendations for noting:

The Cabinet is asked to note:

1. That if agreed the Christmas closure period for the majority of Council services remains unchanged

2. That employees will continue to have the option to purchase annual leave, as detailed in the Buying Annual Leave Scheme guidance, as a substitute for Mandatory Unpaid Leave.
3. There will be an impact on People Services (HR), Agresso and the Payroll team due to the initial work required to make the amendments (communication, engagement, consultation, changes to terms and conditions, policies and guides) and subsequently a potential increase in purchasing of annual leave, monthly deductions and lost pension buy back related work. At this stage this is not quantifiable and will change on an annual basis so this will need to be carefully monitored to review priorities/put work on hold or bring in additional resource if required.
4. That the current arrangements for services not subject to Christmas closure remain the same in that they will still be required to operate as an essential or emergency service. Employees in these services can continue to choose when they book their annual leave using their entitlement or additional purchased leave.

## **1.0 Purpose**

- 1.1 To consider the proposal to end Mandatory Unpaid Leave (MUL) from 2024-2025 to:
  - A. Ensure fairness and equity for our employees as a response to the Management of Equal Pay Risks Audit Report (2023-2024) as not all employees can access Mandatory Unpaid Leave.
  - B. Support our employees with cost of living – effectively a 1.15% increase in pay.
  - C. Respond to a request from Unison for a removal of MUL, following a Unison survey to members.
  - D. Further support our ‘employee offer’ for recruitment and retention purposes by removing the mandatory deduction applied as part of employee terms and conditions.
- 1.2 This report seeks approval to cease MUL deductions and proposes no change to the Christmas closure. The removal of MUL will require employees to book those days off as annual leave from 2024-2025.

## **2.0 Background**

- 2.1 Christmas closure was introduced in 2019 and alongside that a requirement for employees to purchase three days additional annual leave – Mandatory Unpaid Leave (MUL). This equated to a deduction of 1.15% from salaries. At the time of agreement, budgets were adjusted to deliver savings in the region of £1.5 million.
- 2.2 Under pension regulations, employees have the right to buy back lost pensionable pay with employer contributions and this offsets potential savings.
- 2.3 The additional purchased three days leave (MUL) are added to all employees’ leave entitlement each year, employees are then required to book the three days off during closure period.
- 2.4 As you would expect there are a number of services within the Council that do not close during the Christmas closure period (‘essential’ or ‘emergency’ services) – affected employees have the three days annual leave that they have paid for via Mandatory Unpaid leave deductions added to their leave allowance and then take that leave at a time convenient to them and the service.

## **3.0 Considerations**

- 3.1 The Equal Pay Risks Audit Report (2023-2024) stated ‘in some instances MUL deductions were not being made for some positions. This exposes the Council to potential equal pay risks if the deductions were not being consistently applied to either male or female dominated roles’. Employees unable to participate include employees on NJC terms and conditions that work in schools, Level 2 apprentices, most term time only employees, weekend workers and employees that work a non-standard working pattern etc. Reasons for non-inclusion include impact to the service to cover leave, pay

deductions resulting in below national minimum wage, Christmas period not falling within normal work patterns etc. These employees must use their annual leave to book the three days over the Christmas closure period (if their services are subject to closure).

- 3.2 Due to the cost of living rise and subsequent financial pressures for employees, Unison requested a review of Mandatory Unpaid Leave. Unison has advised that 66% of respondents who participated in a survey wanted the monthly deductions to cease and are willing to use three days of their contractual leave entitlement to cover the Christmas closure.
- 3.3 The proposal to remain closed during Christmas is based on feedback the Council has received from employees through surveys that suggests the closure supports their health and well-being because it is the only time of year that work is paused for the majority of employees.
- 3.4 The Council will ensure there continues to be an established list of essential and/or emergency services open during the Christmas closure period, this will be reviewed on an annual basis.
- 3.5 Trade Union discussions have commenced with Unison, Unite, GMB and Prospect to obtain their initial thoughts on the proposal. All have confirmed their acceptance to the proposal in principle. Unite, GMB and Prospect are keen to consult with their members to seek feedback.

#### **4.0 Evaluation of alternative options**

- 4.1 An option would be to do nothing – this would not be conducive to supporting employees with the cost of living rise, their health and wellbeing and would not assist the Council in mitigating against a potential equal pay risk.

#### **5.0 Reasons for decisions**

- 5.1 To support our employees with cost of living – this will equate to an increase in pay of 1.15%, which is an additional £257.00 gross for some of our lowest paid employees.
- 5.2 Some Local Authorities that introduced MUL have since removed it – such as Dudley Council and Worcestershire Council.
- 5.3 Employees will have the choice of purchasing annual leave and this can be considered by them on an annual basis giving them the freedom to consider their own financial circumstances.
- 5.4 Recruitment and Retention is a risk on the Council's Strategic Risk Register. The Council needs to provide a competitive offer that assists in attracting and retaining talent. According to a Chartered Institute of Personnel and Development (CIPD) report 'resourcing and talent planning report, 2022' that surveyed over 1,000 UK-based HR professionals found that pay and benefits is now most commonly ranked amongst the

three most important elements of employer branding for attraction of candidates. The 1.15% uplift in pay therefore could help to attract and retain our talent.

- 5.5 Ensuring that the Christmas closure period for the majority of Council Services, i.e. non-essential services, remains unchanged will ensure the continuing health and wellbeing benefits which have been referenced.
- 5.6 Fairness for employees – employees in some services have advised trade unions that they have lost annual leave due to the inability to use or carry over leave. The council does have a policy allowing employees to carry over up to 5 days leave where they have been prevented from taking that leave. Carry over of more than 5 days leave is at manager discretion. By ending MUL it will reduce the risk of employees losing leave entitlement.
- 5.7 Employees in non-essential services will be able to use their annual leave to cover the Christmas closure, while employees in essential and emergency services will no longer be required to purchase annual leave.
- 5.8 Continuing to offer the option to buy additional annual leave will satisfy those who are supportive of MUL.
- 5.9 Reduces the potential equal pay risks identified in the Equal Pay Risks Audit Report (2023-2024), which highlighted in some instances that MUL deductions were not being made for some positions.
- 5.10 Ensures fairness and equity for our employees as not all employees can access Mandatory Unpaid Leave such as Level 2 Apprentices, weekend workers and those working a non-standard working pattern.
- 5.11 Respond to a request from Unison for a removal of MUL following a survey of members.
- 5.12 Increases productivity for many employees by three days per year. As an example, for a service that employs 20 employees, this is 60 additional working days per year if the employees choose to take their contractual leave rather than purchase additional leave using the buying annual leave process.

## **6.0 Financial implications**

- 6.1 The annual cost implications of removing MUL are estimated to be in the region of £1.8 million.
- 6.2 The draft budget 2024-2025 and Medium-Term Financial Strategy (MTFS) report considered by Cabinet on 18 October 2023 incorporates the cost as a working assumption. However, it should be noted, that it was also reported that the Council was still faced with a projected budget deficit of £2.6 million for 2024-2025.
- 6.3 The final budget report that includes this proposal will be presented to Cabinet and Full Council in February 2024.

6.4 The projected cost of £1.8 million may be offset in part by income from those staff that wish to purchase annual leave, however it is not possible to quantify and this is likely to vary on an annual basis.

6.5 It should be noted that there could be significant resource implications for Payroll, HR and the Agresso Team in respect of people buying back annual leave, therefore there may be additional resources implications to made leave requests. However, it is not possible to quantify, in addition this could vary on an annual basis.  
[AS/01122023/E]

## **7.0 Legal implications**

7.1 Consultation will be required with recognised trade unions on the proposals due to the collective agreement and the change to terms and conditions.  
[TC/01122023/B]

## **8.0 Equalities implications**

8.1 The Council is committed to equality and fairness for all employees and will not discriminate because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

8.2 The Council is committed to promoting equality and recognising the diversity of our communities and will work to ensure all parts of our community are treated fairly. Currently the majority of council employees are required to take leave during the closure period.

8.3 [ACAS](#) states 'your employer has the right to make changes to when you take holiday if they need to. For example, they can decide to shut over Christmas and force their employees to take their paid holiday'. This would suggest this would not be a discriminatory practice.

8.4 The removal of MUL will support our commitment to fairness and equity for our employees as not all employees can access MUL, the removal also mitigates against any potential equal pay risk for the council.

## **9.0 All other implications**

9.1 HR implications have been discussed throughout the report.

## **10.0 Schedule a background papers**

10.1 None