

## Cabinet (Resources) Panel

17 March 2021

<b>Report title</b>	Adult Education Contract Review	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Dr Michael Hardacre Education and Skills	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	All Wards	
<b>Accountable Director</b>	Richard Lawrence, Director of Regeneration	
<b>Originating service</b>	Adult Education Wolverhampton	
<b>Accountable employee</b>	Joanne Keatley Tel Email	Head of Service 01902 558173 joannekeatley@wolverhampton.gov.uk
<b>Report to be/has been considered by</b>	Regeneration Leadership Team Restructure Task and Finish Group	1 December 2020  21 January 2021

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### Recommendation for decision:

The Cabinet (Resources) Panel is recommended to:

1. Approve the revised teaching contract and associated terms and conditions for Adult Education Wolverhampton (AEW) teaching employees.

### Recommendations for noting:

The Cabinet (Resources) Panel is asked to note:

- 1 That the new teaching contract does not apply to senior managers or business-related roles within the service who will consistently receive NJC contracts of employment to reflect the nature of their duties.
2. That a Memorandum of Understanding has been developed with the University and College Union (UCU) to regularise future working arrangements.

## **1.0 Purpose**

- 1.1 To seek Cabinet (Resources) Panel approval for the proposed contract and associated terms and conditions for Adult Education Wolverhampton (AEW) teaching employees.

## **2.0 Background**

- 2.1 AEW, in line with adult education providers nationally, have historically utilised teaching contracts. It has been accepted for some time that the current teaching contract requires updating to meet both legal and service requirements. This is a process that many adult education providers nationally have either completed already or are in the process of undertaking. In Wolverhampton the need for this review has been added to by difficulties in recruiting and retaining employees due to pay issues.
- 2.2 In response to these issues a contract review was instigated in July 2019. A Project Management Group was put in place to oversee this work including the Head of Service and HR Business Partners. Regular meetings were undertaken with the union (UCU) and employee representatives throughout the review process. The Strategy Group for Human Resources Terms and Conditions, who have delegated authority from Strategic Executive Board for this piece of work, endorsed these proposals in February 2020 and the Restructure Task and Finish group approved the final proposals in January 2021.

## **3.0 Progress, options, discussion, etc.**

### **Key issues to address in the contract review**

- 3.1 The contract review sought to address the following key issues:
  - Ineffective and lengthy recruitment campaigns making the delivery of teaching and learning to residents increasingly difficult;
  - Over-reliance on agency employees leading to significant additional costs for the service whilst also affecting the continuity of teaching support to learners;
  - Employees leaving the service due to salary issues. In the most recent employee survey 20% of teachers identified pay as requiring improvement and employees leaving the service highlighted salary levels as a key factor in their decision to leave;
  - Inconsistent contractual arrangements for managers in the service with a combination of NJC and teaching contracts in place for the position of Curriculum Manager;
  - An outdated contract which does not reflect current legal and service requirements.

### **Benchmarking to inform the review**

- 3.2 To inform the review benchmarking was undertaken with other adult education providers and with other local providers, including City of Wolverhampton College. The benchmarking was supported by wider intelligence from HR and from managers within

the service. This identified three possible approaches for the future contract and associated terms and conditions:

- 3.3 Approach 1 – Refine the current academic employment contracts and pay scales to respond to business needs. This option would retain the bespoke academic contract and teachers pay model but with amendments to align with current legal and service needs.
- 3.4 Approach 2 – Move the academic employees within the service to the NJC contracts/pay model. This option would bring the service in-line with the wider Council.
- 3.5 Approach 3 – Refine the current teaching employee employment contracts and use this alongside the NJC pay model and job evaluation toolkit.
- 3.6 The HR Strategy Group considered these approaches in November 2019. They requested legal advice to assess the potential issues and risk associated with each approach particularly related to possible equal pay implications for the Council. Legal advice was provided by Browne Jacobson legal practice. They advised that a bespoke teaching contract and pay model, as detailed in Approach 1, presented a lower risk to the Council. This conclusion was based on the assessment that use of a bespoke contract and pay model reflects the different working patterns and history of adult education contractual working arrangements. They advised that this approach provided the most plausible way forward in terms of reducing risk for the Council. Following legal advice Approach 1 was subsequently agreed as the preferred way forward by the HR Strategy Group in February 2020.
- 3.7 Approach 1 has subsequently been developed further and forms the basis of the proposed new contract and associated terms and conditions outlined in this report.

### **Proposed Model – Pay Implications**

- 3.8 The teaching pay model has been significantly revised to provide new pay points. Full details of the current and proposed pay models are given in Appendix 1. The proposed pay model has the following key changes:
  - Key Change: A salary uplift for frontline teaching employees to address recruitment and retention issues. The starting salary for teachers has been increased from £19,313 to £22,532 with the upper pay point increased from £25,008 to £30,423. The proposed pay model does not result in any employee being financially disadvantaged.  
Reason: To address recruitment and retention issues particularly for front line teachers.
  - Key Change: The posts of teacher and subject lead have been allocated to the same pay grade.  
Reason: The post of subject lead already includes 300 hours remission from teaching to reflect the subject lead responsibilities. The proposed pay model whilst removing the differential in grades provides a financial uplift for all teachers and subject leads.

- Key Change: Increased consistency in the number of pay points for each teaching post. In the current pay model, the number of pay points for posts ranges from 3 to 10. In the proposed pay model this has been equalised to between 5 and 6 pay points for all posts.

Reason: Greater equity in progression opportunities

- Key Change: All Curriculum Managers placed on NJC contracts to reflect the nature of their duties. This replaces a current combination of NJC and teaching contracts for this post. Pensions advice has confirmed that those employees who are undertaking teaching duties will still be eligible for a teaching pension regardless of their contract type. This ensures that no employee is required to change their pension provider.

Reason: Greater consistency and equity within the service. Leave entitlement for these employees has been maintained by moving to a term time only model without financial detriment.

### **Proposed Model – Key Contract Changes**

3.9 The contract has been significantly updated to reflect current working practices, service needs and legal requirements. A copy of the current and revised contracts is provided in Appendix 2 and 3. The proposed contract makes the following key improvements:

- Key change: An increase in teaching hours from a maximum of 800 to a maximum of 820 per annum and an increase to the number of teaching weeks annually from 36 to 38 whilst maintaining the same total working hours per year.

Reason: Increase service delivery outcomes and contribute to the budget required to afford the new pay model.

- Key change: Remove self-directed study leave

Reason: This is not used consistently across the service and there is little evidence of positive impact for the service. Removal provides greater service flexibility within the academic year.

- Key change: Remove detail on duties of individual posts within the contract

Reason: The detail of duties is more appropriately contained within the Job Descriptions for each post. Removal allows flexibility to meet service needs whilst making no changes to the current duties of each post.

- Key Change: Focus on working days per annum within the contract with the removal of specific reference to holidays

Reason: Simplifies processes and continues to reflect largely term time working. There is no change to number of weeks/days/hours worked annually.

- Key Change: Reflect Council generic policies within the revised contract

Reason: Reflects AEW position as an integral part of Council and reduces ambiguity

- Key Change: Replaces recognition of UCU with Memorandum of Understanding (MOU)

Reason: This reflects the actual position. An MOU has been drafted working with the UCU and will provide the basis for positive and collaborative future working. A copy of the revised MOU is attached as Appendix 4.

- Key Change: Enhanced Disclosure and Barring Service (DBS) required for all teaching employees.

Reason: This is required to meet funding requirements.

### **Employee and union consultation**

3.10 The development of the proposals has been undertaken working with union and employee representatives. Formal employee consultation commenced on 16 September 2020 and took place over a three-week period with both group consultation and 1-1 meetings with all teaching employees. During consultation the key issues raised were:

- The impact of assimilation of employees to the new model using the Council's standard policy of assimilation. A concern was that this did not reflect the length of service held by some employees.
- The loss of the two specific weeks previously identified for administration, enrolment and study leave.
- The increase from 800 to 820 teaching hours per annum and the perceived impact on working hours.
- The use of Council policies for issues such as sickness and grievance and disciplinary issues and how the union and employees can influence these policies.
- How duties will be allocated within the 200 working days per year.
- Clarity regarding the availability of leave and time of in lieu (TOIL) for employees in the service.
- Clarity regarding the pensions and opt out facility for employees.

### **Response to employee and union consultation**

3.11 A meeting was held with union and employee representatives on 8 October 2020. It was noted that working hours had not been changed and that the issues related to teaching hours/administration/enrolment and study leave, working days per annum and the use of TOIL were all clarification issues. It was agreed that these issues could be adequately addressed through the development of manager and employee guidance. It was further agreed that the Memorandum of Understanding developed between the Council and UCU will address concerns relating to the adoption of wider council policies.

3.12 In response to the consultation the model has been revised as follows:

- The UCU proposed two new pay model options to address the dissatisfaction of long serving teachers. These were considered but were not feasible based on cost and assimilation principals.
- Specific reference has been made to the mechanism for employees to opt-out of the teaching pension.
- The contract has been revised to reflect the MOU ensuring clear routes for the UCU to comment on wider Council policies which affect AEW teaching employees.
- The Council's TOIL procedure will be adopted for AEW teaching employees.
- Manager and Employee Guidance will be developed to ensure that there is consistency in contract application.

3.13 In December 2020, members accepted the proposal, notwithstanding agreement to back-pay to September 2020.

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

4.1 A number of options have been considered and rejected in developing the above proposals.

- Option one would be to make no change to the existing contract and associated terms and conditions. This would result in continued recruitment and retention issues for the service and an outdated contract for employees.
- Option two would be to update the contract to meet current legal and service needs retaining the current pay model. This would result in continued recruitment and retention issues.
- Option three would be to move to an NJC contract for teaching employees. As detailed in paragraph 3.6 above this was discounted following legal advice.

#### **5.0 Reasons for decision(s)**

5.1 The proposals provide a contract that is fit for purpose. It meets current legal requirements whilst also facilitating high quality service delivery. The accompanying pay model will ensure that AEW can recruit and retain excellent teaching employees within a competitive market. The risk in not taking the decision will be that the service is unable to recruit teaching employees to provide the learning support that residents need.

## **6.0 Financial implications**

- 6.1 The proposals within this report will have direct financial implications for the service. The revised pay model will incur additional employee costs of £89,985 plus £34,448 for the 2.75% pay increase not budgeted in 2020-2021, giving a total of £124,433.
- 6.2 For the financial year 2020-2021, there will be a part year effect. The additional employee costs will be £72,586, inclusive of back-pay to September 2020.
- 6.3 In future years, the additional cost will be partially offset by the savings which will be achieved through the contract changes of increased teaching weeks and teaching hours. This will contribute £34,000 in a full academic year.
- 6.4 In addition to the saving identified above, there are further savings realised from a decrease in employers pensions costs. An amount to circa £60,000 per year has been identified to offset the additional staffing costs for the service.
- 6.5 The remaining budget requirement will be met from within the existing AEW budgets which are funded through a combination of Education and Skills Funding Agency and West Midlands Combined Authority Grants. Additional external funding will also be sought wherever possible.
- 6.6 There is a risk, that should grant funding be reduced there will be a financial pressure on the service.  
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## **7.0 Legal implications**

- 7.1 In developing the proposed model legal advice was provided to ensure that any legal and equal pay issues were fully understood. Advice was sought from legal advisors Browne Jacobson on all options. Following legal advice, we considered the option chosen to be preferable.  
[JB/19012021/G]

## **8.0 Equalities implications**

- 8.1 An equalities analysis has been completed and formed part of the employee consultation.

## **9.0 All other implications**

- 9.1 The contract for all teaching employees within AEW will be revised in line with this review. This includes a new pay model. The proposals have been the subject of employee consultation and the employee comments received have been considered as part of developing the final proposals.

## **10.0 Schedule of background papers**

- 10.1 None.

## **11.0 Appendices**

- 11.1 Appendix 1 – Current and Proposed Pay Model.
- 11.2 Appendix 2 – Current Teaching Contract.
- 11.3 Appendix 3 – Proposed Teaching Contract.
- 11.4 Appendix 4 - Memorandum of Understanding with the UCU Trade Union.