

## **Report to the Cabinet**

**Report reference:** C-079-2010/11

**Date of meeting:** 18 April 2011



**Epping Forest  
District Council**

**Portfolio:** Performance Management

**Subject:** Essential User Car Allowance and Part Time Staff

**Responsible Officer:** Paula Maginnis (01992 564536).

**Democratic Services Officer:** Gary Woodhall (01992 564470).

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### **Recommendations/Decisions Required:**

- (1) That the lump sum element of the Essential User Car Allowance be paid in full to all eligible part time staff from 1 April 2011;**
- (2) Cabinet agree to backdate such payments to existing eligible staff for a maximum period of 6 years (to 1 April 2005); and**
- (3) Cabinet agree that similar back payments be made to any eligible ex-Council staff who submit a written request.**

### **Executive Summary:**

The Council currently pays eligible part-time staff essential car user allowance on a pro rata basis. However, the National Agreement on Pay and Conditions of Service ('Green Book') makes it clear they should be paid the allowance in full.

There is no evidence that there was ever a locally negotiated agreement to depart from the National Conditions of Service.

Now that this issue has been brought to the Council's attention the Director of Corporate Support Services has advised the essential user allowance is paid in full, that back payments should be made for a period of 6 years to current eligible Council staff, and that similar back payments should be made to any ex-Council staff who submit a written request.

### **Reasons for Proposed Decision:**

The National Agreement on Pay and Conditions of Service ('Green Book') makes it clear that the lump sum for essential users should not be paid on a pro-rata basis, but in full. There is no evidence of a locally negotiated agreement to depart from this condition. Moreover, as this condition is found in Part 2 of the 'Green Book' it cannot be locally negotiated.

### **Other Options for Action:**

The Council can continue to pay the lump sum element of the essential user allowance on a pro-rata basis and risk challenge for unauthorised deduction of wages, which would not be defensible.

**Report:**

1. A member of staff drew the attention of the Payroll team to the Council's current practice of paying the lump sum element of the essential user car allowance to part-time staff on a pro-rata basis, and that this conflicted with the 'Green Book'.
2. The 'Green Book' states in paragraph 8.1 that as part of the Key National Provisions:  
  
*"Part-time employees shall have applied to them the pay and conditions of service pro-rata to comparable full time employees in the same authority, except for:-*  
  
*(a) ...*  
  
*(b) the car allowance scheme – which applies to part-time employees in full on the same basis as full time employees."*
3. The Council's practice for at least 10 years has been to pay the lump sum element of the essential user car allowance to part-time employees on a pro-rata basis. This condition is contained within Part 2 of the 'Green Book' and cannot be locally negotiated.
4. For the financial year 2010/11, Payroll have identified 26 current part-time members of staff who have been paid the lump sum element of the essential user car allowance on a pro-rata basis. The cost of restoring the payment to the full time equivalent would be £14,352.81. The records held in Payroll suggest that the numbers of part time staff receiving such a payment had been similar in previous years.
5. The Director of Corporate Support Services has advised that back payments should be made for a period of 6 years to current eligible Council staff, and that similar back payments should be made to any ex-Council staff who submit a written request.

**Resource Implications:**

The approximate total cost of the back pay would be in the region of £54,000 of which £39,000 relates to the Housing Revenue Account. The proposal is to fund this from salary under spends.

As the liability has risen in 2010/2011, the cost will need to be reflected in those accounts.

**Legal and Governance Implications:**

The Council are obligated to implement the conditions set out in Part 2 of the 'Green Book'. Legal have advised that back payments are made in accordance with the statute of limitations i.e. 6 years to current staff and to any ex-Council staff who submit a written request.

**Safer, Cleaner and Greener Implications:**

Not applicable.

**Consultation Undertaken:**

Not applicable.

**Background Papers:**

National Agreement on Pay and Conditions of Service ('Green Book').

**Impact Assessments:**

Risk Management

If the Council does not pay the full essential car user allowance to part-time staff, it could risk challenge from current employees for unauthorised deduction of wages, which would not be defensible.

Equality and Diversity:

*Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties reveal any potentially adverse equality implications?* No

*Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?* No

*What equality implications were identified through the Equality Impact Assessment process?*  
N/A.

*How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?*  
N/A.