

Appendix 4b: Report to the Project Board – BLACKPOOL WASTE COMPANY Steering Group Terms and Conditions Paper

Date: October 2020

Author: Christine Lancaster, Employee Relations Advisor

Transfer of Blackpool Council Staff on their current Terms and Conditions

1. Pros and Cons of the transfer on current Terms and Conditions

It has been agreed to review how a number of Waste related services currently managed in-house within Blackpool Council could potentially transfer to the management of Blackpool's wholly owned company, Blackpool Waste Services North West (trading as BLACKPOOL WASTE COMPANY). This will be done under the Transfer of Undertakings (Protected Employment) Regulations (2006) – TUPE.

See separate attachment regarding staff in scope to transfer.

The staff in scope for the transfer are employed on NJC terms and conditions (including access to the Local Government Pension Scheme).

2. Summary of Key NJC Terms and Conditions

Annual Leave:

- Less than 5 years' service – 25 days (excluding bank holidays)
- More than 5 years' service - 27 days (excluding bank holidays)
- More than 10 years' service – 31 days (excluding bank holidays)

Employees are also able to request additional unpaid leave each year; this must be agreed by the manager in advance.

Occupational Sick Pay:

- 1st year of service – 1 month full pay and after completing 4 months service 2 months half pay.
- During 2nd year of service - 2 months' full pay, then 2 months' half pay
- During 3rd year of service - 4 months' full pay, then 4 months' half pay
- During 4th and 5th year of service - 5 months' full pay, then 5 months' half pay
- After 5 years' service - 6 months' full pay, then 6 months' half pay

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Pay and Grading:

- Current NJC pay scales attached for reference (report from Project Working Group Finance Advisor to be made available specifying costings and budget projection).
- Contractual and non-contractual overtime rates applied at service level agreements, including time off in lieu.
- Living Wage Supplement - the Council has agreed to pay a Living wage supplement to any employee (excluding Apprentices) whose hourly rate falls below the nationally recognised UK Living wage rate (outside of London).
- Flexi Time – whilst not a specific term within the authorities allowances, this is a benefit that many current staff enjoy.
- Access to Local Government Pension Scheme for all staff – please note, this transfers with all staff regardless of whether they are current, active members of the scheme (see para 3.)

Policy and Procedure:

- All Blackpool Council employees sign statements of particulars that show their agreement to Blackpool Council policies and procedures, not limited to but including the following:
 - o Discipline
 - o Employee Complaints (Grievance)
 - o Attendance Management
 - o Redundancy and Retirement
 - o Poor Performance (Capability)
 - o Whistleblowing

A full list of HR Policy and Procedure is available on request.

3. Local Government Pension Scheme

All council employees who transfer to BLACKPOOL WASTE COMPANY will retain their right to either remain in or join the Local Government Pension Scheme (LGPS) as this is a protection under TUPE. Consequently, those employees will see no change in their pension provision or entitlement and their pension record will simply show a change of employer at the transfer date. BLACKPOOL WASTE COMPANY is already an employer within the Lancashire Pension Fund and has two existing employees who contribute to the LGPS.

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In respect of costs, the employer LGPS contribution rates for BLACKPOOL WASTE COMPANY is 17.70% which is effective from 1 April 2020 for a period of three years. For comparison the current Blackpool Council employer rate is 15.6% (tax year 2020/21) increasing to 16.4% for the year 2021/22. The LGPS is an unfunded public sector pension scheme and every three years the fund actuary undertakes a valuation of the pension fund to determine the employers' rates applicable for the next triennial period. The next valuation will take place in 2022 with the new rates effective from 1st April 2023, this review will be the first to include the increased LGPS membership of BLACKPOOL WASTE COMPANY.

Any new employees joining the company, will as they do now, be entitled to join the People's Pension, which is a defined contribution pension scheme meeting the minimum Government requirements of an occupational pension scheme. Membership is not automatic but any employees who are classed as 'eligible' employees will be auto enrolled. Eligible Employees are those aged over 22 but under State Pension Age and earning more than £10,000 per year. The current minimum employer contribution rate is 3%.

Yvonne Moulton – Senior Pension Officer

4. Proposal

To consider the transfer of all staff in scope on their current and protected terms and conditions.

5. Pros and Cons of the transfer on current Terms and Conditions

The main trade union bodies recognised at Blackpool Council are Unison and GMB; their express desire is that all employees remain under the management of Blackpool Council and that the authority remain the main employer.

However, they agree that, should the transfer be agreed, their preferred scenario would be that all staff retain their current terms and conditions under TUPE with no measures implemented to amend any of the employee rights or benefits.

This benefits both Blackpool Council and BLACKPOOL WASTE COMPANY in the view that it is anticipated that staff will not object to the transfer if their terms and conditions are protected; the only changes they would see to their employment

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would be their employer name and associated vehicles / uniform / management structure. The terms and conditions of employment would remain with each employee until their employment ceases.

However, the above means that BLACKPOOL WASTE COMPANY will be made up of a two (potentially three) tier workforce; staff employed by Veolia (and therefore, Veolia terms and conditions) who were part of the original transfer at the inception of BLACKPOOL WASTE COMPANY, staff on Blackpool Council terms and conditions and potentially new staff, employed directly by BLACKPOOL WASTE COMPANY on their own suite of terms, policy and procedure. This may bring challenges in the harmonisation of all staff working together; this would need to be carefully managed. John Hawkin, Managing Director of BLACKPOOL WASTE COMPANY, is aware of these potential challenges and separately work has begun where possible on aligning rates of pay for BLACKPOOL WASTE COMPANY staff against same or similar posts within Blackpool Council.

The creation of BLACKPOOL WASTE COMPANY terms and conditions (and subsequent policy and procedure) will mean that over a period the workforce will evolve to reflect a company of staff all employed on the same terms and conditions. It will, however, will take a substantial period of time to achieve contractual consistency.

6. Recommendations

For staff in scope to transfer from Blackpool Council to BLACKPOOL WASTE COMPANY on their current, protected terms and conditions on the proviso that measures are implemented to ensure the transition is done with minimal disruption to the both the BLACKPOOL WASTE COMPANY and Blackpool Council workforce i.e. pay dates may need to be altered, annual leave years realigned, etc.