

AYRSHIRE SHARED SERVICE JOINT COMMITTEE

4 NOVEMBER 2022

Report by the Head of Ayrshire Roads Alliance

SUBJECT: ARA TRANSFORMATION – TUPE ARRANGEMENTS

PURPOSE OF REPORT

1. The purpose of this report is to advise Joint Committee on the outcome of negotiations with Trade Unions and employees on varying the terms of conditions of service for the remaining SAC employees to EAC terms and conditions, to align the service, enable greater service flexibility, and ensure continued and appropriate workforce planning.

RECOMMENDATIONS

It is recommended that Joint Committee;

- (i) **Agree not to progress with varying the terms of conditions of service for the remaining SAC employees to EAC terms and conditions.**
- (ii) **Agree to carry out a further review in 2024 as part of Best Value Service Review.**
- (iii) **Otherwise notes the contents of the report.**

BACKGROUND

3. Ayrshire Roads Alliance delivers a wide range of services across East Ayrshire and South Ayrshire under the strategic leadership of the Depute Chief Executive (Communities and Economy). Services are frontline which focus on our Communities, Roads Infrastructure and Transport Services. The Service is currently led by the Head of Roads, Ayrshire Roads Alliance with 3 Strategic Managers who are responsible for their respective service areas.
 - Business Support
 - Traffic and Transportation
 - Roads Maintenance
 - Design and Environment
 - Fleet Management
4. Ayrshire Roads Alliance service redesign and transformation was approved by Cabinet on 23 February 2021. The Council's Transformation Strategy required that Service Redesigns took account of the statutory duty of best value under the Local Government in Scotland Act 2003. The Service Redesign, therefore, was completed with due consideration having been given to the best value

characteristics, as well as the transformational design principles previously agreed by Council to inform and shape service redesign across the Council.

5. The Ayrshire Roads Alliance carried out workforce planning across all service areas and identified ways to maximise the service under increasing budget pressures. Initially, this involved the alignment of certain job functions, reduction in posts, flexible retirement options and amendments to certain job outlines to enable a more flexible approach to service delivery.
However, as we continued to look at workforce planning and our ability to adopt a more flexible approach to service delivery, it was approved that we took steps in accordance with established employment law practices and procedures to vary the Terms and Conditions of Service of the remaining South Ayrshire Council employees who transferred to Ayrshire Roads Alliance in 2014 under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) in order that they could be transferred to East Ayrshire Terms and Conditions under Economic, Technical, and Organisational reasons (ETO). This would have enabled a more unified service, greater service flexibility, ensure appropriate workforce planning, and alignment of payroll dates.

MAIN ISSUES

6. Consultation commenced with trade unions and employees during 2021/22 to explore options to transfer 24 remaining TUPE SAC employees to East Ayrshire Terms and conditions and equivalent pay grades.
7. Clear options were identified and were put forward to trade unions as follows;
 - Complete transfer of employees to East Ayrshire terms and conditions and equivalent salary for the relevant post.
 - Transfer to East Ayrshire terms and conditions and retain South Ayrshire salary scale.
 - Retain the current position.
8. As part of the process Ayrshire Roads Alliance reviewed current salary scales across both authorities and clearly identified that all 24 employees would be subject to a level of detriment if full transfer was implemented.
9. The level of detriment varied between £138 and £1796.
10. Following discussions with the SAC TUPE employees some were willing to agree to move over to East Ayrshire Terms and conditions and retain their existing SAC salary, however, it was established that the proposals had not been accepted by all relevant employees.
11. The Trade Unions were clear that they would not consider the option of employees moving to East Ayrshire Terms and Conditions while retaining their South Ayrshire salaries as this would breach TUPE regulations.

12. In light of the financial detriment that the employees would face if the move to East Ayrshire salaries was imposed, particularly given the current situation with the cost of living crisis, Ayrshire Roads Alliance agreed with employees and trade unions not to pursue any amendments to their terms and conditions or salary. However, it was confirmed that the position would be reviewed again in 2024 as part of the next Best Value Review which also coincides with Ayrshire Roads Alliance tenth anniversary. It was also taken into account that the number of employees remaining on SAC Terms and Conditions and salaries has reduced steadily with a reduction of more than two thirds since 2014. It, therefore, would seem that there will be fewer employees who may be adversely impacted if the review is carried out in 2024.

POLICY/COMMUNITY PLANNING IMPLICATIONS

13. The drive towards securing continuous improvement in delivering Council services is a fundamental requirement placed upon Councils through the Local Government Scotland Act, 2003. Progress in relation to the matters covered in this report demonstrates a continued commitment by the Council to deliver on this requirement.
14. A well maintained road network will contribute to achieving Community Plan 2015-30 objectives in relation to Economy and Environment by providing good access to our communities and the wider road network; improve community safety and help reduce road accidents.

LEGAL IMPLICATIONS

15. By virtue of the relevant statutory provisions principally detailed within the Roads (Scotland) Act 1984, the Council as local roads authority is required to manage and maintain all publicly adopted roads within its geographical area other than those which are maintained and managed by the Scottish Ministers. Accordingly, the proposals detailed within this report are in compliance with the discharge of the statutory responsibilities which are incumbent upon the Council as local roads authority.
16. There are no direct legal implications arising from this report. Maintaining the current position is still in accordance with TUPE legislation. Any legal matters arising from the outcome of individual reviews will be highlighted within the relevant Joint Committee and Cabinet reports.

HUMAN RESOURCES IMPLICATIONS

17. There will be no change to the Terms and Conditions or salaries of the remaining employees who transferred from South Ayrshire Council in 2014 which is still compliant with TUPE legislation.

TRADE UNION IMPLICATIONS

18. As part of consultation with Trade Unions on the Ayrshire Roads Alliance Service Redesign, it was agreed that the status quo would remain for the former South Ayrshire employees who are still subject to TUPE arrangements at this time.

FINANCIAL IMPLICATIONS

19. The cost of retaining the current salaries of the 24 former South Ayrshire employees is approximately £33,500 per annum (including employer's costs). As the cost of the difference in salaries has significantly reduced since 2014, is in accordance with TUPE legislation and will avoid significant financial detriment for employees, it is considered appropriate to continue to meet these costs from South Ayrshire Council Local Delivery.

RISK MANAGEMENT IMPLICATIONS

19. There is no risk implications.

TRANSFORMATION

20. This Transformational Service Redesign of the Ayrshire Roads Alliance supports or links with all of the Transformation Workstreams:

Work stream 2: Workforce Planning, Cultural Change and Service Re-design.

This Report also aligns with the design principles stated in the "Transformation Strategy 2017-2022" - "Maximum value for our communities", by ensuring Maximum value for our communities; by ensuring a well maintained road network.

EQUALITY IMPACT ASSESSMENT

21. An Equality Impact Assessment screening of the proposals contained within this report has not been undertaken

NET ZERO IMPLICATIONS

22. There are no implications

Background Papers Ayrshire Roads Alliance Service Redesign and Transformation; Cabinet 23 February 2021

Appendices There are no appendices

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19 October 2022