

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Employment in Hampshire County Council
Date of Decision:	17 March 2010
Decision Title:	Cycle to work salary sacrifice scheme - Update
Decision Reference:	1455
Report From:	Gavin Wright, Director of Human Resources

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1. Executive Summary

1.1 At its meeting on 22 July 2009, Employment in Hampshire County Council (EHCC) agreed the introduction of the Cycle to Work salary sacrifice scheme and approved the provider P&MM Limited, a part of Motivicom Plc.

The purpose of this paper is to inform EHCC on the delay to the introduction of the Cycle to Work salary sacrifice scheme, the reasons for the delay and the further work that has been undertaken to resolve these issues.

2. Contextual information

2.1 Following EHCC's approval for the Cycle to Work salary sacrifice scheme in July 2009, the Council's scheme was scheduled to be launched at the beginning of January 2010.

2.2 On 18 December 2009 HM Revenue and Customs (HMRC) published new guidance on both cycle and bus salary sacrifice schemes. This guidance clarified HMRC's position on a number of the conditions that must be met in order for a scheme to qualify for the relevant tax exemptions. Prior to this date HMRC had been silent on how these requirements must be met and organisations had been left to interpret them as appropriate.

2.3 In light of the HMRC guidance the launch of the Council's scheme has been delayed while further work is undertaken to assess what potential actions need to be taken to ensure the scheme qualifies for the tax exemption and any implications and risks associated with these proposals.

2.4 A number of organisations, including Devon County Council, have suspended their schemes while they assess the implications of the guidance.

3. Clarification to the HMRC guidance

- 3.1 The arrangements, commonly referred to as 'Cycle to Work', take advantage of a tax exemption that allows employers to loan cycles and cyclists' safety equipment to employees as a tax-free benefit. In order for the exemption to apply one of the requirements is that the cycles or equipment be available generally to all employees.
- 3.2 There are a number of employees who for statutory reasons, such as ensuring that pay is not reduced below the level of the National Minimum Wage (NMW) or because of legal barriers to under 18 year olds signing up to the type of agreement typically included in a cycle to work salary sacrifice arrangement, have been excluded from the 'Cycle to Work' scheme.
- 3.3 HMRC's recently updated guidance confirm that even if some employees are excluded from salary sacrifice arrangements e.g. under 18's and those falling below the NMW, the offer of a cycle must still be open to them in order for the exemption to apply. This does not mean that every employee has to be provided with a cycle but that the use of loaned cycles or equipment must be available to all employees if they wish to take it up.
- 3.4 Both the updated HMRC and Department for Transport guidance include information about how employers may take action to ensure that the condition about the offer of a cycle being open to all employees is satisfied. For example the establishment of a 'pool' of cycles for loan to other employees and that an adult may act as a guarantor if an employee aged under 18 wishes to enter into a cycle salary sacrifice arrangement.

4. Implications for HCC's proposed Cycle to Work salary sacrifice scheme

- 4.1 Under HCC's proposed Cycle to Work scheme the following staff were to have been excluded: -
- staff under the age of 18, as they are unable by law to enter into a Consumer Credit Act agreement
 - staff whose pay after the salary sacrifice is deducted would reduce to below the National Minimum Wage
 - staff on a temporary contract that ends before the end of the 12 month agreement
 - Casual or agency staff, including supply teachers, as they are not employees of Hampshire County Council
- 4.2 The exclusion of these groups of staff means that the Council's proposed Cycle to Work scheme does not meet the requirement that the cycles or equipment be available generally to all employees. It therefore does not satisfy the tax exemption requirements.

5. Potential solutions considered

5.1 In light of the HMRC guidance the following options have been considered as potential solutions to ensure that the Council's scheme meets the tax exemption requirements: -

- a) Adult to act as a guarantor for the hire agreement for staff aged under 18 years. This option would ensure that the loan of a cycle and equipment would be available to staff under 18 years. However, consideration would need to be given to any potential risk of default and how monies could be recouped should an employee default on any payments or leave the Council prior to the end of the agreement.
- b) Explore whether the agreement/hire periods for staff working less than 12 months e.g. temporary staff and casual workers, could be reduced to match the length of their employment. This option would be potentially unworkable as many casual workers are only employed for short periods of time and it would not be practical to manage the salary sacrifice arrangements over such a short timeframe.
- c) Establishment of a 'pool' of cycles that the Council would purchase and maintain and that would be available for loan to employees excluded from the salary sacrifice scheme. This option could potentially provide a solution for all those staff excluded from the cycle to work salary sacrifice scheme and ensure that the scheme meets the requirements for the tax exemption. However, further consideration would need to be given to such issues as how many cycles would be required, how many locations the bikes would need to be made available at, and the practicalities of managing such a scheme e.g. transporting the bikes to ensure they are available at the appropriate locations for staff to use.

6. Other considerations

6.1 HMRC has made a number of significant changes to how salary sacrifice schemes operate over the last year, including changes to the Childcare Voucher Scheme. These changes have made it increasingly unattractive for employers to operate salary sacrifice schemes. In light of these continued changes it is possible that the review of potential solutions may lead the Council to conclude that the practical implications and financial risks associated with these options mean the Cycle to Work salary sacrifice scheme is no longer a viable scheme. If this were the case, consideration could be given to extending the Council's existing interest free Bicycle Loan scheme, to cover non-EHCC staff and increase the amount that can be loaned to £1,000, bringing it in line with the amount proposed under the Cycle to Work scheme.

7. Next steps

7.1 Further work is being undertaken to investigate the practicalities, financial

implications and potential risks associated with the option to establish a 'pool' of cycles for loan to employees excluded from the salary sacrifice scheme.

Following completion of this work a further paper outlining the position and a recommendation on whether the scheme should proceed will be presented to EHCC.

8. Recommendation(s)

EHCC are asked to note the delay to the launch of the Council's Cycle to Work scheme pending further enquiries and work following the publication of HMRC guidance on 18 December 2009.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	no
Corporate Business plan link number (if appropriate):	
Maximising well-being:	no
Corporate Business plan link number (if appropriate):	
Enhancing our quality of place:	no
Corporate Business plan link number (if appropriate):	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Cycle to work salary sacrifice scheme	847	22/07/09

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

5. Impact on Crime and Disorder: N/A

6. Climate Change:

- i. **How does what is being proposed impact on our carbon footprint / energy consumption?** The likely impact of the cycle to work scheme on our carbon footprint/energy consumption is hard to quantify as it is difficult to predict the number of staff who would participate in the scheme. However, it could potentially result in a reduction in the use of private cars for travel to work. It would hopefully encourage staff to reduce reliance on private cars for journeys to and between work locations.
- ii. **How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?** See above