

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Employment in Hampshire County Council
<b>Date of Decision:</b>	20 July 2010
<b>Decision Title:</b>	Cycle to work salary sacrifice scheme - Update
<b>Decision Reference:</b>	1906
<b>Report From:</b>	Director of Human Resources

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#### 1. Executive Summary

- 1.1 At its meeting on 17 March 2010, an update was provided to Employment in Hampshire County Council (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 was being undertaken to try to resolve these issues.
- 1.2 The purpose of this paper is to:
- inform EHCC on the outcome of this further work and the recommendation that the Council does not implement the Cycle to Work salary sacrifice scheme
  - seek EHCC approval to extend the Council's existing interest free Bicycle Loan Scheme to cover non-EHCC staff and increase the amount that can be loaned to up to £1,000

#### 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 due to be launched in January 2010.
- 2.2 On 18 December 2009 HM Revenue and Customs (HMRC) published new guidance which applied to the Cycle to Work salary sacrifice scheme. 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 should 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 was delayed while further work was undertaken to assess what potential

actions could 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 and Kent County Council, have either suspended or decided not to launch their schemes in light of the HMRC guidance.

### **3. Excluded groups and potential solutions considered**

- 3.1 Under HCC's proposed Cycle to Work scheme a number of staff would 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 (NMW)
  - staff on a temporary contract of less than 12 months
  - casual or agency staff, including supply teachers, as they are not employees of Hampshire County Council
- 3.2 HMRC criteria for operation of salary sacrifice schemes poses difficulties in relation to the exclusion of these staff. Further work has clarified that to include these groups, in order to comply with the new HMRC guidance and tax exemption requirements, HCC would need:
- an adult to act as a guarantor for those under 18,
  - provide access to bikes for those whose pay, as a result of the salary sacrifice, would fall below the NMW
  - apply different pay back periods for temporary and casual staff who are often on very short 'contracts'
  - establish a 'pool' of cycles – to employees potentially based at over 100 locations across the County

However, the implementation of these solutions could pose significant practical and potential financial cost to HCC.

### **4. Other considerations**

- 4.1 At the end of the loan period an employer may choose to offer the cycle for sale to the employee and to avoid tax issues this needs to be at fair market value. This may make the scheme unattractive to employees who would effectively have already re-paid the value of the cycle over the one year repayment period. It would also increase the administrative costs of running the scheme for the Council.
- 4.2 Currently, employers are able to reclaim the VAT element of the cost of the cycles, without declaring VAT on the salary sacrificed by employees. A case has been taken to the European Court of Justice regarding the VAT position on salary sacrifice schemes. Although the case relates to High Street vouchers, if the Court agrees with the "Advocate General" opinion on the matter, the VAT benefit of all salary sacrifice schemes will be lost

resulting in an erosion of the benefit of the scheme to employees.

- 4.3 HCC run an interest free loan scheme under which staff can currently borrow up to £500 to purchase a new bicycle. In 2009/10 37 employees (0.12% of eligible employees) took out a interest free bicycle loan, with an average loan value of £400. An initial cost to the organisation of approximately £15k, which is repaid by monthly deduction from salary over a period of 12 months.
- 4.4 Non-EHCC staff including Teachers are not able to participate in the scheme and Teachers regularly raise queries about the scheme and why they are not eligible.

## **5. Conclusions**

- 5.1 In view of the number, complexity and costs associated with operating the Cycle to Work scheme it is recommended that HCC does not introduce it's scheme.
- 5.2 It is proposed that the current interest free bicycle loan scheme be increased to £1,000 maximum and extended to cover all staff on HCC payroll, including Teachers subject to the usual service charge for schools and further work being carried out into how this might feasibly operate.

## **6. Recommendations**

- 6.1 EHCC are asked to approve:
- the recommendation not to introduce the Cycle to Work salary sacrifice scheme
  - the extension of the Council's interest free Bicycle Loan Scheme to cover all staff on the HCC payroll, subject to further work being carried out into how this might feasibly operate, and increase the amount that can be loaned up to a maximum of £1,000.
- 6.2 In light of the issues highlighted in this report we would recommend HCC not considering any further salary sacrifice schemes at the current time.

**CORPORATE OR LEGAL INFORMATION:**

**Links to the Corporate Strategy**

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

**Other Significant Links**

<b>Links to previous Member decisions:</b>		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Cycle to work salary sacrifice scheme (EHCC Committee)	847	22/07/09
Cycle to work salary sacrifice scheme – Update (EHCC Committee)	1455	17/03/10

**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:**

N/A

### **2. Impact on Crime and Disorder:**

N/A

### **3. Climate Change:**

#### **a) How does what is being proposed impact on our carbon footprint / energy consumption?**

The likely impact of the proposed 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. As a result it is difficult to quantify the impact of not implementing the scheme. However, the proposed extension to the existing interest free bicycle loan scheme 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.

#### **b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?**

See above.