

Taunton Deane Borough Council

Executive – 12 September 2012

Review of Lease Car, Cash Alternative and Car Loan Schemes

Report of the Retained HR Manager

(This report is the responsibility of Executive Councillor Stock-Williams)

1 Executive Summary

The purpose of this report is:

- (1) to approve amendments to the Lease Car and Cash Alternative Schemes; and
- (2) to approve amendments to the Car Loan Scheme.

2 Background

- 2.1 The terms and conditions of employment for staff at Taunton Deane Borough Council are based on the National Terms and Conditions of Service for Local Government Services as amended locally by the Council through collective agreements with UNISON as the recognised trade union.
- 2.2 These local terms include a frozen Lease Car and Cash Alternative Scheme and a Car Loan Scheme.
- 2.3 As part of the Budget Review Project for 2012/13 the Car Leasing and Cash Alternative Schemes were identified as possible staff benefits/terms and conditions where changes could be made.
- 2.4 However, due to the complexity of these schemes, Counsel's Opinion was sought in October 2011. Bearing in mind the advice received, the other changes that were being introduced as part of the budget review and the need to have sufficient resources to manage this appropriately a decision was taken by the Corporate Management Team to reschedule this review until 2012/13.
- 2.5 In addition to the general background Counsel was provided with 13 additional documents/background data to assist them in providing their advice.
 1. Letter of 16 November 2000 from Chief Personnel Officer – Scheme Frozen
 2. TDBC Staff Car Lease Scheme – Outline Conditions of Scheme 2004
 3. TDBC Staff Lease Car Allowance Calculation Policy 2008
 4. TDBC Staff Car Leasing Scheme – Agreement 2004
 5. TDBC Master Agreement for Contract Hire with Full Maintenance

6. Principal Statement of Particulars of Employment – Lease Car with Pension
7. Principal Statement of Particulars of Employment – Lease Allowance
8. Principal Statement of Particulars of Employment – Lease Car Agreement
9. Schedule of Employees with Lease Cars
10. Schedule of Employees with Cash Alternative
11. Schedule of Equality Data relating to Lease Car and Cash Alternative employees
12. Current Lease Car Allowance amounts
13. Current Lease Car Cash Equivalent amounts

2.6 Counsel was asked to provide advice on 8 issues.

1. Whether the proposed closure of both schemes can be done safely through a Collective Agreement with UNISON for all affected employees.
2. On what basis the closure of the schemes could be achieved if a Collective Agreement is not appropriate.
3. What, if any action, should the Council take (in addition to notifying each employee of the proposals being discussed with UNISON) with employees who are not members of UNISON.
4. Whether the cash alternative payment given and accepted by staff should be superannuable where their previous lease car arrangements were superannuable.
5. The level of one off compensation which would be appropriate and whether such compensation should vary between those employees with a superannuable right and those without.
6. Whether any compensation payment would be subject to tax or whether such a payment can be made as an ex-gratia payment.
7. Whether the alternative proposal (the Council set out an alternative to closure of the schemes in the covering document) could be achieved without a 'collective agreement' and whether this approach could be challenged as a breach of contract.
8. Generally – any other advice.

2.7 Counsel's Opinion provided the authority with legal advice and also the main elements of a negotiating stance to be taken with UNISON and individual staff. As such the detail of the 'opinion' needs to remain confidential but has been shared with the Portfolio Holder and Shadow Portfolio Holder.

2.8 However to assist members with their understanding of the advice and the approach proposed some elements of the 'opinion' have been set out below.

'TDBC is right when it says that the provision of a lease car is a contractual benefit.....the best way to attempt to change or vary...is through negotiation and consultation with UNISON. This is undoubtedly best achieved via a collective agreement.'

'Should collective agreement not be possible, TDBC will automatically be at risk.....There are two possible courses of action.....'

'Thus, the importance of collective agreement cannot be overstated.....'

'There is always the alternative suggestion....TDBC should include this as part of its discussions with UNISON/the other affected employees..if it is really something that could achieve the desired cost savings...'

- 2.9 The advice from Counsel has been used by the Retained HR Manager to formulate a range of options which have been revised and reviewed with the Chief Executive.
- 2.10 Attached at Appendix A is a copy of the proposal which was provided to UNISON (at the UNISON Change Forum of 12 June 2012) and to affected individual staff by letter shortly after that meeting. Further consultation and negotiation has been undertaken with UNISON and, in an effort to reach agreement, the original proposals have been slightly amended and these amendments are shown in bold text and set out in 3.2 and 3.3 below. Affected staff have been advised of these amended proposals.
- 2.11 Corporate Scrutiny considered these issues at its meeting of 19 July 2012 and **Resolved** that the proposals detailed in the report be supported and that the Committee's views be submitted to the Executive. A copy of the full minute is attached as Appendix E.
- 2.12 Attached as Appendix B is an Equality Impact Assessment for these changes.
- 2.13 When considering the review of the Lease Car and Cash Alternative Scheme it was felt appropriate to review the current car loan scheme and make recommendations for changes and these are attached at Appendix C.

3 Summary of Proposals

- 3.1 Full details of the proposed Lease Car and Cash Alternative Scheme are attached as Appendix A which will apply to all 32 affected staff.
- 3.2 As can be seen from the proposal it is suggested that a reduced Lease Car and Cash Alternative Scheme is retained. On the basis of this proposal there will be no need to 'buy out' the contractual benefit although as part of the continuing negotiations with UNISON, and taking on board comments from staff, the proposals have been amended to provide for a buy out option equivalent to ones times the existing contribution level.
- 3.3 The new Scheme would see:

One Lease Car/Cash Alternative rate set at an initial level of £1280 per annum which provides for a reduction in direct expenditure of approximately 60%

Only vehicles with an emission of less than 120 g/km being able to be leased

The option to take a lump sum buy out (equivalent to one times the current contribution level less deductions for tax and national insurance).

- 3.4 If this option were agreed and implemented savings would be in the region of £57,500 per annum with effect from 1 April 2013. This saving excludes any additional amounts which would occur if staff took the option to buy out as described above. In discussions with the S151 Officer this option would be viewed as an 'invest to save' initiative with expenditure being covered by the use of reserves as the pay back period is within 3 years.
- 3.5 With regard to Car Loans (details are attached as Appendix C) it is proposed that loans will only be available for vehicles with less than 120 g/km emissions and that (other than for the first loan taken by a member of staff opting out of the lease car arrangement) all future loans would be subject to an interest charge.

4 Benefits of the Proposed Policies

- 4.1 It is recognised that these changes will impact on staff but it is felt to be important that the changes are introduced in time for the 2013/14 budget due to the current budget deficit.
- 4.2 In addition to the budget benefits the proposals also support the Council's carbon emission aspirations and help to reduce risks associated with equal pay.
- 4.3 If these proposals can be concluded with a collective agreement with UNISON this will also assist in reducing the risk of challenge based on employment and equalities legislation although it should be noted that Counsel believes the authority could seek to implement the changes.
- 4.4 UNISON are currently preparing to ballot affected members on the revised proposals as the best which could be achieved through negotiation.

5 Financial Implications

- 5.1 Overall direct expenditure on lease cars and cash alternatives is in the order of £103,000 per annum and these proposals will save in the region of £57,500 per annum excluding any additional revenue savings created by the new buy out option which would provide an additional annual revenue saving of £1280 per employee who opts out.
- 5.2 It should be noted that care should be taken in quoting a definitive saving as circumstances are always changing (staff movement, decisions by individual staff etc).
- 5.3 If all staff were to opt out, which is highly unlikely, the maximum liability on reserves would be in the order of £103,000.

6 Links to Corporate Priorities

- 6.1 The Lease Car and Cash Alternative proposals and the Car Loan Proposals support the Councils priorities relating to carbon emissions and are linked to the Budget Strategy.

7 Finance Comments

- 7.1 Savings in the order of £57,500 as set out in 5.1 are achievable as long as the proposed scheme is agreed and implemented as set out.

8 Risk Management

Risk	Consequence	Probability	Impact	Treatment
Scheme is challenged by UNISON and/or staff	Possible delays to Scheme introduction, Employment Tribunal Claims or Industrial Action	1	3	UNISON have been involved in consultation and staff have been consulted and UNISON are preparing to ballot affected members.
New Scheme impacts on staff morale.	Productivity affected and increased staff turnover.	3	2	Communication to staff to ensure they know the reasons why changes are required and the impacts on service delivery have been taken into account.

9 Equalities Issues

- 9.1 The proposed scheme will be applied across all affected staff on a consistent basis.
- 9.2 The proposals for the Lease Car and Cash Alternative Scheme are supported with an Equalities Impact Assessment (Appendix B) which highlights that there are still some remaining equal pay risks.
- 9.3 Data has been shared with UNISON to assist them with their response to consultation.

10 Partnership Implications and Consultation

- 10.1 The policy will apply to all affected Taunton Deane employees including those seconded to SW1.
- 10.2 SW1 has been consulted on the proposals contained within this report and understands that these will apply to secondees.
- 10.3 Consultation has also taken place with the Taunton Deane UNISON Branch who has in turn discussed issues with UNISON Regional Office.

- 10.4 The proposals which were developed have been communicated to all affected staff and an initial 21 day consultation period held. A summary of responses is attached as Appendix D. The updated proposals have also been notified to affected staff.
- 10.5 As a result of the initial consultation period amendments were made to the proposals for annual reviews to ensure that these were clear and did not impact further on staff affected. The further consultation with UNISON has also seen amendments made with regard to 'buy out'.

11 UNISON Comments

- 11.1 UNISON provided the following comments on 10 July 2012 prior to consideration of the issue by Corporate Scrutiny and these were subsequently responded to in full.
- Can the Council explain in detail why it does not propose to 'buy out' lease car drivers on an individual basis?
 - Changes to the scheme should be phased in so that those people who have recently taken out a new car loan, as distinct from coming to the end of one, are not disproportionately affected. Under the current proposals some employees are facing an immediate reduction of more than 50% - several thousand pounds per annum – in their lease car allowance.
 - Some staff will have been paying superannuation contributions on the value of the lease. The new lower level of financial contribution by the Council will adversely affect both the lump sum and annual pension payments. How does the Council propose to ensure that those people for whom the benefit is pensionable, do not lose out?
 - UNISON would wish to see the basis on which future index linking of the allowance is to be carried out and how this would be applied to people in receipt of a cash alternative.
- 11.2 UNISON wished to reserve the right to submit further comments once specific advice has been received from its Regional Office and have confirmed there are no additional comments they wish to make.

12 Recommendations

- 12.1 To approve the amendments to the Lease Car, Cash Alternative and Car Loan Schemes as set out in this report and give the Retained HR Manager delegated authority to implement the Schemes taking due regard of the result of the ballot of affected UNISON members and the advice of Counsel.
- 12.2 To request Full Council to approve a supplementary estimate from General Fund Reserves of £103,000 to fund the maximum potential cost of buy-out from the existing schemes. Any unused funds will be returned to General Fund Reserves.

13 Appendices

- 13.1 Appendix A – Proposed Lease Car and Cash Alternative Scheme
- 13.2 Appendix B – EIA for Lease Car and Cash Alternative Scheme
- 13.3 Appendix C – Proposed Car Loan Scheme
- 13.4 Appendix D – Summary of staff consultation responses
- 13.5 Appendix E – Corporate Scrutiny Minute

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LEASE CARS AND CASH ALTERNATIVES

PROPOSALS

CURRENT POSITION

The Council has obtained Counsels Opinion on the current Lease Car and Cash Alternative Schemes in relation to making amendments to them and/or terminating them. This advice was for a range of different options which could then be considered.

The Council has acknowledged, due to its current financial position, that the situation with regard to Lease Cars and Cash Alternatives needs to be reviewed to provide a saving. It is also accepted that changes are needed for equitable reasons within the workforce following changes to car allowances and staff parking charges.

In considering the options regard has been given to the need to make an ongoing revenue saving against the potential costs of buying out the schemes without any alternative being available.

PROPOSAL

The proposal is to retain both a lease car and cash alternative scheme with an amended set of benefits.

The main elements of the proposal are that:

- 1) The range of lease cars available for selection will be limited to vehicles at or below CO2 emission levels of 120 g/km unless very exceptional operational circumstances apply.
- 2) Employees will continue to be responsible to provide their own insurance.
- 3) The financial contribution by TDBC towards the lease vehicle agreement will be limited to £1280* per annum.

This allowance rate will be reviewed annually on 1 April and applied to the cash alternative payment, existing leases as well as any new leases.

- 4) The Cash Alternative will be £1280 per annum with effect from 1 April 2013.
- 5) **Alternatively the employee could choose to opt out of either the car leasing scheme or cash alternative scheme and receive a one off lump sum payment based on their existing contribution level. This payment would be subject to deductions for tax and national insurance.**

- 6) Changes to be effective from 1 April 2013.
- 7) Mileage payments for lease car drivers and staff with the cash alternative will continue to be paid at the lease car rate (currently 16.3p per mile)
- 8) Where staff with an entitlement to a cash alternative meet the eligibility criteria to be an essential car user then they will have the option to opt have the essential user allowance and mileage applied rather than the cash alternative and lease car mileage.

*this contribution is based on a CITROEN C1 HATCHBACK 1.0i VT 5dr on a four year lease of 10,000 miles per annum.

There are 7 lease vehicles due to extend beyond 31 March 2013 and the affected employee will have the option to:

- a) retain the vehicle and pay the additional contribution;
- b) return the vehicle and lease a new vehicle under the new scheme rules;
- c) return the vehicle and move to the new cash alternative scheme.
- d) purchase the vehicle

In the case of vehicles being returned early or purchased early the termination charges will be met by the authority.

The intention is to consult with UNISON and affected staff on the above with a view to achieving a collective agreement. Notice would then be given of the new arrangements to the affected staff.

Changes to Car Loan Scheme

It is also proposed to make some amendments to the Car Loan Scheme so that loans are only available for the purchase of vehicles at or below CO2 emission levels of 120 g/km unless very exceptional operational circumstances apply.

There are also proposals to charge interest on the majority of car loans **however employees opting out of the Car Leasing Scheme (either to the cash alternative scheme or completely) would have the option to take an interest free car loan as a one off option..**

Equality Impact Assessment – Lease Cars and Cash Alternative

Responsible person	Martin Griffin	Job Title – Retained HR Manager
Why are you completing the Equality Impact Assessment? (Please mark as appropriate)	Change to Policy or Service	Revision of Car Leasing Scheme and Cash Alternatives; The schemes were introduced as a recruitment and retention benefit and have been frozen to new staff for a number of years. The continuation of the schemes without revision will increase the risk of exposure the Council faces from Equal Pay challenge.
	Budget/Financial decision – MTFP	Required as part of the Budget Strategy Project.
What are you completing the Equality Impact Assessment on (which policy, service, MTFP proposal)	<p>The Car Leasing and Cash Alternative Scheme are available to some groups of staff with protected rights and an analysis has been compiled that shows the equalities data for the staff who benefit from a lease car or cash alternative and who are affected by the proposed changes to the schemes.</p> <p>Information gathered includes details of gender, disability, ethnicity, age and is available within HR and has been shared as part of the discussions with UNISON.</p>	
Section One – Scope of the assessment		
Both of the above schemes are available to a protected group of staff and an analysis has been compiled for which shows which staff benefit from the scheme currently. As this is a closed scheme new staff will not be eligible to benefit from the schemes and the continuation of the schemes without some amendment will increase the risks to the Council.		
What are the main purposes/aims of the schemes?	The schemes were introduced as recruitment and retention benefits but because of the changing nature of the economy have, for a number of years, been closed and staff with the benefit have had this protected.	

Which protected groups are targeted by the schemes policy?	None
What evidence has been used in the assessment - data, engagement undertaken – please list each source that has been used The information can be found on....	An analysis of the staff with the protected benefit has been compiled and comparison can be made with the whole workforce statistics. The information is available from HR.
Section two – Conclusion drawn about the impact of service/policy/function/change on different groups highlighting negative impact, unequal outcomes or missed opportunities for promoting equality	
<p>1. The retention of a reduced right to a lease car or cash alternative will apply to all staff with a protected benefit.</p> <p>2. This proposed change may adversely impact on eligible staff with pension entitlements for the lease vehicle although there are protection arrangements LGPS. There are seven male employees and one female employee in this category who will be affected.</p> <p>3. The retention of a scheme with reduced benefits will reduce the possible impact of equal pay claims.</p>	
I have concluded that there is/should be:	
Adjust the policy	Lease Cars and Cash Alternatives - Where staff have disabilities there may be the need to adjust the policy to be able to provide a suitable vehicle above the benchmark.

Unison	Gender	Ethnicity	Age group	Disability
0	M	White/English	31-40	N/A
0	M	N/A	41-50	N/A

0	M	White/English	41-50	N/A
0	M	White/English	41-50	No
1	M	White/English	51-60	No
1	M	N/A	51-60	N/A
0	F	N/A	61+	N/A
0	M	White/English	41-50	N/A
1	M	White/English	51-60	No
1	M	N/A	51-60	N/A
1	M	N/A	51-60	Yes
1	F	White/English	41-50	Yes
1	F	White/English	51-60	N/A
1	M	White/English	51-60	N/A
1	M	N/A	41-50	N/A
0	M	White/English	51-60	N/A
0	F	White/English	51-60	Yes
0	F	White/English	41-50	No
0	M	White/English	41-50	No
1	F	White/English	41-50	No
0	M	N/A	61+	N/A
1	M	White/English	51-60	No
0	F	White/English	41-50	N/A
0	M	White/English	41-50	No
1	F	White/English	51-60	Yes
1	F	White/English	41-50	No
1	M	White/English	41-50	No
0	F	N/A	41-50	Yes
0	M	White/English	41-50	No
0	F	White/English	51-60	N/A
0	M	White/English	41-50	N/A
0	F	White/English	51-60	No

Unison		
Y	14	44%
N	18	56%
Male	20	63%
Female	12	37%
Age Group		
16-20	0	0
21-30	0	0
31-40	1	3%
41-50	16	50%
51-60	13	41%
61+	2	6%
Ethnicity		
White	24	75%
N/A	8	25%
Disability		
Yes	5	16%
No	12	38%
N/A	15	46%

TAUNTON DEANE BOROUGH COUNCIL **ASSISTED CAR PURCHASE SCHEME DETAILS**

1. Eligibility

1. An employee of the Council is entitled to apply for a car loan under the Assisted Car Purchase Scheme if they meet one of the following criteria: -
 1. i) are an essential car user, for which interest is payable on a loan;
or
 - ii) are moving from the lease car scheme to the cash alternative scheme on 1 April 2013, for which the first loan will be interest free and subsequent loans charged with interest
or
 - iii) have special dispensation as a casual user with a Strategic Director agreement, for which interest is payable on a loan.

2. Amount Borrowed

- 2.1 The Council's current maximum loan available is £7,000 and repayment can be made over a maximum of five years.
- 2.2 A repayment table is available showing the monthly repayments for a loan at the current rate of interest in accordance with National Conditions.
- 2.3 Money **cannot** be borrowed:
 - To cover Road fund licence
 - To cover Fuel costs
 - To cover Accessories, such as a tow bar, roof rack or fog lights, fitted at the time of purchase.
 - For vehicles more than 5 years old at the time of application

3. Applying for a Loan

- 3.1 To apply for a car loan you will need to complete the attached application form giving details of the loan you require and car you wish to purchase. Loans will only be granted for vehicles which have emissions at or below 120 g/km
- 3.2 In addition to this, an independent inspection and valuation report is required for all second hand vehicles being purchased (see attached). We will also need the original sales invoice and vehicle registration document.
- 3.3 All of the above information needs to be forwarded to HR for approval.

4. Legal Agreements

You will be required to sign a legal agreement before the cheque is released. A member of staff from HR will contact you when this is ready for you to sign.

5. Further Information

If you require any further information about the scheme, please contact HR Advisory Services who will be pleased to help.

TAUNTON DEANE BOROUGH COUNCIL

ASSISTED CAR PURCHASE SCHEME

VEHICLE VALUATION REPORT

1. All second hand vehicles are to be inspected by an independent engineer. The nominated provider for Taunton Deane Borough Council 's scheme is:

Deane DLO
Priory Depot
Priory Way
Taunton

Telephone: 01823 356356

2. Inspections must be carried out at their workshops.
3. They aim to carry out an inspection within two days of receipt of the request/inspection form and cheque. The cost of the inspection is to be borne by the employee, and is currently £52 plus VAT.
4. You should enter your details on the attached inspection form and then pass it to the Deane DLO for them to complete and return to you.

APPENDIX D

Summary of Lease Car Responses to Consultation

Employee	Date Raised	Issue Raised	Response	Date Sent
Employee A	15/06/2012	I have for some time intended to move over to the cash alternative. My lease car is 7 months or so outside of its original lease period and I am keen to move forward and purchase the vehicle, Before I instruct HR that I wish to change please could you confirm that under the proposals I will receive the cash alternative at the existing rates (circa £2920 p/a) pro rata until the end of March 2013	I can confirm that for you.	15/06/2012
Employee B	18/06/2012	<p>Following your recent letter regarding the above could you send me a copy of the counsel's advice that TDBC have received please?</p> <p>Also could you please confirm the current lease allowance for officers.</p>	<p>Unfortunately I can't provide you with a copy of counsels opinion as this is provided to the Council on a confidential basis.</p> <p>With regard to current lease allowances these are:</p> <p>Up to SCP 32 £212.20 pcm</p> <p>SCP 33 and above £254.59 pcm</p> <p>Chief Executive and SDs £283.50 pcm</p>	18/06/2012
Employee B	18/06/2012	Thanks for the reply however I am concerned that you are not able to share counsels advice openly with me. The proposals outlined in your letter are going to reduce the lease allowance for an officer at my grade from over £3k pa to £1.3k ie a reduction of over 50% but I am unable to see the legal advice that you have received which presumably details that TDBC are able to do this.	I note your comments about the Counsel's Opinion and will respond later about the provisions under which the Council believe it can make these proposals.	18/06/2012

If you cannot share this advice then please advise me under which employment contract provisions the scheme is being amended.

I have a number of comments to make regarding the proposed scheme and will respond more fully later this week.....it would be helpful if you could send me an electronic copy of the consultation document which will enable me to put comments against the proposals in a structured way.

I am not a member of Unison but have copied them into my query.

‘The need for a (vehicle) allowance and its classification may be reviewed and, where necessary, it will be amended or withdrawn’ (Clause J in the contracts)
I have attached the electronic consultation document for you so that you can use this when making your response.

The Council has entered into consultation with staff on proposals to vary the lease car and cash alternative schemes and it is hoped that this can be achieved through a collective agreement with UNISON.
Where a member of staff is not a UNISON member we will also consult with them as an individual to get their feedback and response. However, should agreement not be possible with UNISON, I would advise that there is express contractual provision that the Council could use.

Employee C	18/06/2012	At present I have a lease car whose lease runs till the 7th of July. What options, if any, are open to me between this date and 1st April 2013 and are these the ones listed in the alternatives letter assuming I am one of the 7 affected employees?	Your options at 7 July are: i) extend the lease up to 31 March 2013 ii) end the lease and return the vehicle which means you could move to the cash alternative at its current rate until 2013 iii) end the lease and purchase the vehicle which means you could move to the cash alternative at its current rate until 31 March 2013 If you wanted another vehicle at 7 July for a four year period we would need to sit down and discuss these arrangements to ensure that everyone was clear how it would work.	20/06/2012
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		With regards to the proposals and consultation I am a bit confused. Are staff involved in the consultation process up till 5th July and if so who do we return our responses to?	Any consultation responses should be returned to me – they can be done individually or through UNISON if you are a UNISON member.	
Employee D	18/06/2012	<p>Generally I am supportive of the reduction in the emissions limit for 160g/km down to 120g/km. This is in line with the Council's 'green' policies and follows the trend within the motor industry itself.</p> <p>The huge percentage reduction in financial contribution by the Council is personally disappointing, but from a corporate stance I understand the need to make financial savings.</p> <p>The proposals regarding insurance and mileage payments remain unchanged so have no detrimental effect on staff.</p>	I know you are away but thought I would acknowledge and let you know I will do a more detailed response when back in the office w/c 2 July.	20/06/2012
		I am concerned at the precise wording in proposal 3 about annual reviews. The wording states the annual review will be applied to " <i>the cash alternative, existing leases as well as any new leases</i> ". This reads that staff could be subject to changes in lease payments during the life of the lease. This is a major departure from the previous scheme whereby payments were fixed for the whole of the lease period. How does the Council justify this when the cost to the Council from the leasing company will be fixed? Staff taking out leases could be adversely affected financially when they have no options to negotiate.	Thank you for raising this matter and I will now discuss this part of the proposal with the Chief Executive. This was included so that those staff retaining a lease car would benefit from any increases in the lease cost of the standard vehicle in the same way as those receiving the cash alternative would. There was and is no intention for this to be reduced.	03/07/2012

My existing lease runs out in October this year. Under the current scheme I would now begin looking to replace it. Given the proposals I assume this is not an option. Could you please confirm that my current lease will be extended on a monthly basis on its existing terms until 31 March and there will be no additional costs to me above my current contribution.

I can confirm that your vehicle can be extended on the basis that you set out and there will be no financial impact on you.

Since the lease car scheme started I have been paying superannuation contributions on the value of the lease. The suggested new lower level of financial contribution by the Council will seriously adversely affect both my lump sum and annual pension payments. What proposals does the Council have to protect my position within the pension scheme?

Attached are details of the protection arrangements that apply under the Local Government Pension Scheme. Should you wish to have further personal assessments of the impact I will ask the Pensions Section.

Employee B	19/06/2012	Please find attached my response in red text regarding the consultation to the proposed changes to the TDBC lease car scheme.	I am collecting a number of comments and will start replying in detail in week commencing 2/7.	20/06/2012
		Regarding the contractual provisions under which TDBC could make these changes you mention below clause J - I checked my lease vehicle contract last night and could not see this clause or are you referring to the employment contract clauses? If so could you send me the clause in full please so i can see it in the context of our employment contracts.	Clause J is one of the terms outlined in your contract of employment. Below is the full version.	19/06/2012

J. Current Motor Car Allowance

If your post currently carries a motorcar allowance, this will be shown at item 16(b) on page 2. Your attention is particularly drawn to the fact that such allowances are allocated to specific **posts** (not individual employees).

The need for an allowance and its classification may be reviewed and, where necessary, it will be amended or withdrawn. All employees authorised to use their motor vehicles on official business are advised that they will need to be insured by a reputable insurance company including in the policy of insurance a clause indemnifying the Borough Council against all third party claims (including those covering passengers) arising out of the use of the vehicle on official business. Employees authorised to use their motor vehicle on official business are responsible for its safe operation and for ensuring that it is in a safe and roadworthy condition. For those posts where driving is regularly required as part of the duties the loss by the employee of his/ her driving licence as a result of a driving disqualification may lead to a termination of employment.

Employee C	20/06/2012	Can I extend the lease till 31 March 2013 but move to the cash alternative at any time after 7 July but before March 2013?	Of the top of my head I can't see anything wrong with what you suggest but would need to ask SW1 Procurement when I am back in the office at the end of next week to check I am not missing anything. We (SW1 Procurement) would need to have your confirmation and I believe they will be in touch with you very shortly as they have been looking at extensions etc.	20/06/2012
		Do you need confirmation from me to extend contract till March 31 2013 from 7 July till such time as I may change my mind regarding taking up the cash alternative?		

Employee E	22/06/2012	<p>How may these proposals be affected in the case of those individuals (such as myself) who first had a lease car prior to the date(which i believe is December 1991) when the 'value' of the lease contribution (and i assume the cash alternative) could count as pensionable remuneration?</p>	<p>With regard to your queries I have attached guidance from Somerset CC Pensions on the protection arrangements where pensionable pay is reduced. I can also confirm that the cash alternative is not pensionable and this is an issue we checked with Counsel.</p>	03/07/2012
		<p>What alternatives were looked at in terms of one-off lump sum payments to end the entitlements altogether? I believe that this is a route which other councils have gone down and is something which i would be very happy to consider. I accept completely that any such payment would have to be affordable and represent value for money for the council, but it would seem a 'cleaner' solution and one which would maximise revenue savings in the slightly longer term.</p>	<p>With regard to alternative options I can confirm that a full range of options were considered both prior to and after the advice from Counsel was received. In terms of the best financial and achievable option for the Council it was felt that the proposal provided to scheme members was the one which should be presented. The proposals affect all scheme members equally irrespective of when they joined the scheme.</p>	
Employee F	03/07/2012	<p>I am concerned that it is proposed that there will be a large reduction in the in the cash alternative down to £1280 yet there is no increase for the amount per mile that can be claimed for using the car for business purposes. I have a relatively small car (VW Polo) but according to official figures this car costs 44.5p per mile to run. A mileage allowance of 16.3 per mile seems unfair given that the lump sum will be reduced significantly. I would suggest that a figure closer to the true cost of travelling is provided. If the mileage allowance remains at 16.3 the employee will effectively be "subbing" the council from their reduced lump sum which seems unfair.</p>	<p>Thank you for your response. I note your comments about the mileage rates but would say that traditionally lease car mileage rates have been lower than essential user rates as the lease provides for all maintenance costs and servicing.</p>	03/07/2012

The proposed date for the change (April 2013) does not take into account the fact that many people with the cash alternative will have taken out finance based on an assumption that the cash alternative would remain relatively static throughout the period of their loan

I note your comments and accept that this is a potential outcome from this proposal although, if this were accepted as a legitimate argument, changes would be very difficult to make..

Employee G 03/07/2012 I am disappointed that the amount allocated has been reduced by 58% which is the equivalent of a substantial pay cut for a small group of staff. However, I am relieved the scheme will remain open and I will still be able to have a leased car, even though it will be much smaller. Thanks for your response. 04/07/2012

Can I please have confirmation that I will be able to extend the lease of my existing car until 31 March 2013 after which time the new scheme will apply.

I am also able to confirm that your existing lease can be extended until 31 March 2013.

Employee F 03/07/2012 Yes – understood
My comments on the mileage rate relates to those people who have the cash alternative rather than the lease and so would have to fund maintenance and servicing from a lump sum that will be more than halved while still only getting the same mileage rate

Put simply it seems that TDBC are reducing the lump sum but not increasing the payment that will be made when that employee uses their car for business purposes. The more mileage that that employee does, the greater the impact

On the latter point there is always the tipping point that if the employee does enough miles to qualify for an essential user allowance they can move to that scheme which does, of course, come with the higher mileage.

Employee B Comments in Italics

MG Comments in bold

CURRENT POSITION

The Council has obtained Counsels Opinion on the current Lease Car and Cash Alternative Schemes in relation to making amendments to them and/or terminating them. This advice was for a range of different options which could then be considered. *It would be helpful if counsels opinion could be shared with lease car recipients (would this be available via an FOI request?) but if not confirmation of the employment contract provisions that allow for such changes would be useful.*

I have checked with the Monitoring Officer and counsels opinion is covered by legal privilege. It would therefore not be available under FOI. I am also aware that Fiona has sent you details of the employment contract provisions.

The Council has acknowledged, due to its current financial position, that the situation with regard to Lease Cars and Cash Alternatives needs to be reviewed to provide a saving. It is also accepted that changes are needed for equitable reasons within the workforce following changes to car allowances and staff parking charges.

In considering the options regard has been taken to the need to make an ongoing revenue saving against the potential costs of buying out the schemes without any alternative being available.

PROPOSAL

The proposal is to retain both a lease car and cash alternative scheme with an amended set of benefits.

The main elements of the proposal are that:

- 9) The range of lease cars available for selection will be limited to vehicles at or below CO2 emission levels of 120 g/km unless very exceptional operational circumstances apply. *It is good that the scheme is to continue*

Noted

- 10) Employees will continue to be responsible to provide their own insurance.

- 11) The financial contribution by TDBC towards the lease vehicle agreement will be limited to £1280* per annum. *It would be helpful if TDBC could specify how many vehicles are available at 10,000 miles and an annual lease of £1280 pa – this will help users judge whether the proposed new allowance is reasonable.*

I will ask Steve Redman in Procurement whether this can be done.

The current proposals mean that a lease allowance for an officer such as myself will fall from £3055.08 to £1280 – a fall of 58%! How can this be justified in one year – have you considered a sliding scale of lease allowance reductions?

We understand that this is a substantial reduction but this has been proposed in order to assist in closing the budget gap and yes a whole range of options were considered prior to this final proposal being put forward.

The new lease allowance means that only smaller cars will be available at the level of the allowance compared to the current benchmark of say a mid range hatchback. I think it reasonable to ask how TDBC can expect officers to make such a drastic reduction in their vehicle requirements in one year, with little notice – some officers will have an ongoing need for say an estate car which will not be able to be leased without a significant increase in their vehicle contribution from 1/4/13.

I have noted this and accept that this is an outcome of the proposal that has been made.

This allowance rate will be reviewed annually on 1 April and applied to the cash alternative payment, existing leases as well as any new leases. There needs to be clarity on the basis by which allowance rates will be reviewed each year and will this be reflected in allowances given to staff each year or will the allowance be fixed for the life of the vehicles lease based on the allowance level when the lease was taken out?

Thank you for raising this matter and I will now discuss this part of the proposal with the Chief Executive. This was included so that those staff retaining a lease car would benefit from any increases in the lease cost of the standard vehicle in the same way as those receiving the cash alternative would. There was and is no intention for this to be reduced.

12) The Cash Alternative will be £1280 per annum with effect from 1 April 2013.

13) Changes to be effective from 1 April 2013. *I do not think it reasonable to expect officers to make such a change part way through their lease – you are effectively moving the goalposts and requiring officers to pay significantly more for the same vehicle or look to downsize their vehicle requirements which when they took the lease out (in my case 18 months ago) they would have been unaware of. I think it more reasonable to impose such a change only at the end of current leases.*

I have noted this and accept that this is an outcome of the proposal that has been made. The proposal is however aimed at seeking the change in the Scheme in time for the financial benefit to be felt in the 2013/14 budget.

14) Mileage payments for lease car drivers and staff with the cash alternative will continue to be paid at the lease car rate (currently 16.3p per mile)

15) Where staff with an entitlement to a cash alternative meet the eligibility criteria to be an essential car user then they will have the option to opt have the essential user allowance and mileage applied rather than the cash alternative and lease car mileage.

*this contribution is based on a CITROEN C1 HATCHBACK 1.0i VT 5dr on a four year lease of 10,000 miles per annum.

There is a VAT loophole in the current scheme which could if closed could save the council further money – I would be happy to discuss further

Thanks for highlighting this and I would be grateful if you could provide further information.

There are 7 lease vehicles due to extend beyond 31 March 2013 and the affected employee will have the option to:

e) retain the vehicle and pay the additional contribution; *As mentioned above I do not regard it as reasonable to expect users to change their vehicle mid way through their lease*

Noted

f) return the vehicle and lease a new vehicle under the new scheme rules;

g) return the vehicle and move to the new cash alternative scheme.

h) purchase the vehicle

Whilst I appreciate it maybe prohibitively expensive to close the scheme completely and “buy out” all lease car scheme members have you considered offering this option on a case by case basis?

We did consider the option of closing the scheme but having considered the legal advice have not brought this forward as a viable option. It is also not felt to be appropriate to offer this on a case by case basis.

In the case of vehicles being returned early or purchased early the termination charges will be met by the authority. *Please also clarify the position on any mileage charges*

Excess mileage charges would be met by the authority if above the pro rata position at the point of termination.

The intention is to consult with UNISON and affected staff on the above with a view to achieving a collective agreement. Notice would then be given of the new arrangements to the affected staff.

Changes to Car Loan Scheme

It is also proposed to make some amendments to the Car Loan Scheme so that loans are only available for the purchase of vehicles at or below CO2 emission levels of 120 g/km unless very exceptional operational circumstances apply.

There are also proposals to charge interest on the majority of car loans.

I am unsure of the current rules regarding eligibility of car loans but would you be able to offer up a car loan facility to staff who are currently eligible for a lease car – thereby allowing them to surrender (or purchase) their current vehicle and get an alternative vehicle via a car loan – these staff would of course still be eligible for the lease car cash equivalent payment

We are also looking at making some changes to the Car Loan Scheme and I have attached the papers for you – this allows for staff coming out of the lease car scheme to be provided with an interest free loan (first loan only) for a vehicle which has emissions of less than 120g/km

The staff would still be eligible for the cash equivalent payment.

Minute of Corporate Scrutiny 19 July 2012

50. Review of Lease Car, Cash Alternative and Car Loan Schemes

Considered report previously circulated, which proposed a number of changes to the Lease Car and Cash Alternative Schemes and the Car Loan Scheme.

As part of the Budget Review Project the Car Leasing and Cash Alternative Schemes were identified as possible staff benefits where changes could be made.

However, due to the complexity of these schemes, Counsel's Opinion was sought in October 2011. Bearing in mind the advice received, the other changes being introduced as part of the budget review and the need to have resources to manage this appropriately a decision was taken by the Corporate Management Team to reschedule this review until 2012/2013.

Counsel was asked to provide advice on 8 issues, as follows:-

9. Whether the proposed closure of both schemes could be done safely through a Collective Agreement with UNISON for all affected employees;
10. On what basis the closure of the schemes could be achieved if a Collective Agreement was not appropriate;
11. What, if any action, should the Council take (in addition to notifying each employee of the proposals being discussed with UNISON) with employees who were not members of UNISON;
12. Whether the cash alternative payment given and accepted by staff should be superannuable where their previous lease car arrangements were superannuable;
13. The level of one off compensation which would be appropriate and whether such compensation should vary between those employees with a superannuable right and those without;
14. Whether any compensation payment would be subject to tax or whether such a payment could be made as an ex-gratia payment;
15. Whether the alternative proposal (the Council set out an alternative to closure of the schemes in the covering document) could be achieved without a 'collective agreement' and whether this approach could be challenged as a breach of contract; and
16. Generally – any other advice.

Counsel's Opinion provided Taunton Deane with legal advice and also the main elements of a negotiating stance to be taken with UNISON and individual staff. As such, the detail of the 'opinion' needed to remain confidential but had been shared with the Portfolio Holder and Shadow Portfolio Holder.

However to assist Members with their understanding of the advice and approach proposed some elements of the 'opinion' had been included in the report, details of which were shown below:-

- 'Taunton Deane is right when it says that the provision of a lease car is a contractual benefit.....the best way to attempt to change or vary...is through negotiation and consultation with UNISON. This is undoubtedly best achieved via a collective agreement.'
- 'Should collective agreement not be possible, the Council will automatically be at risk.....There are two possible courses of action.....'
- 'Thus, the importance of collective agreement cannot be overstated.....'
- 'There is always the alternative suggestion....Taunton Deane should include this as part of its discussions with UNISON/the other affected employees....if it is really something that could achieve the desired cost savings...'

Reported that the advice from Counsel had been used by the Retained HR Manager to formulate a range of options which had been revised and reviewed with the Chief Executive.

The Portfolio Holder and Shadow Portfolio Holder had been fully briefed and Counsel's Opinion provided prior to the proposal being submitted to UNISON (at the UNISON Change Forum of 12 June 2012) and to affected individual staff by letter. An Equality Impact Assessment had also been completed.

Initial consultation ran for 21 days ending on 5 July 2012 and a summary of the responses received were submitted for the information of Members.

The proposal was to maintain a reduced (between 40% and 45% of current benefit levels) Lease Car and Cash Alternative Scheme and on this basis would be no need to 'buy out' the contractual benefit.

If this option were agreed and implemented savings would be in the region of £57,500 per annum with effect from 1 April 2013.

Further reported that retaining a scheme still meant there were some risks retained with regard to equal pay – although these would be reduced and if there was a collective agreement, the likelihood of challenge would be reduced.

Noted that the proposals would also help support the Council's stated aim to reduce carbon emissions.

The Chairman invited Phil Bisatt of UNISON to address the Committee. He said that UNISON remained cautious in their response until further comments had been made by their members but accepted that some budgetary cuts were less painful than others especially where it avoided job losses. UNISON

were also aware of the need to review schemes where there were variations between staff.

During the discussion of this item, Members made the following comments and asked questions:-

- It was good that briefings of the Portfolio Holder and Shadow had taken place and that this long running report had at last come before Members;
- The links to vehicle emissions of 120g/km or less was positive;
- Assurance was sought that staff with any disability would be addressed through the Equality Impact Assessment; and
- Concern was expressed that on this case and with other cases, the use of Counsel may not always be appropriate both with regard to costs and approach.

In relation to the last two points the Retained HR Manager confirmed that the Equality Impact Assessment did address this concern and, with regard to the use of Counsel, a ballpark cost was provided and an explanation as to why it was felt appropriate for this to be sought prior to the consultation with affected staff and UNISON.

Resolved that the proposals detailed in the report be supported and that the Committee's views be submitted to the Executive.