

PERSONNEL COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY, 19 FEBRUARY 2013

Councillors Present: Peter Argyle, Tony Linden, Mollie Lock (Vice-Chairman), Andrew Rowles and Quentin Webb (Chairman)

Also Present: Jane Milone (Human Resources Manager), Robert O'Reilly (Head of Human Resources), Councillor Adrian Edwards and Moira Fraser (Democratic Services Manager)

PART I

13. Minutes

The Minutes of the meeting held on 20 December 2012 were approved as a true and correct record and signed by the Chairman.

The Chairman welcomed the members of staff and trade union representative who were attending the meeting to listen to the debate on the Market Supplement Review paper. It was also noted that Councillor Adrian Edwards was attending the meeting even though he was not required to substitute for any of his colleagues. He would therefore not be taking part in the voting on any of the items.

14. Declarations of Interest

Councillors Argyle, Linden, Lock, Rowles and Webb declared an interest in Agenda Items 5 and 7, but reported that, as their interest was personal and not a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.

Councillors Argyle, Linden, Lock, Rowles and Webb declared that they had been lobbied on Agenda Items 5 and 7.

15. Statutory Pay Policy Statement

The Committee considered a report (Agenda Item 4) concerning the Council's Pay Policy Statement which would come into effect on the 01 April 2013. Jane Milone in introducing the item reported that the Council was required to publish the statement in order to comply with s38 of the Localism Act 2011 and the Code of Practice for Local Authorities on Data Transparency in relation to remuneration and responsibilities of senior officers.

Ms Milone explained that this was the second time the policy had been presented to the Personnel Committee.

Members considered the report and agreed to recommend it to full Council for approval.

RESOLVED that the report would be recommended to full Council (05 March 2013) for approval.

16. Market Supplement Review

(Councillors Argyle, Linden, Lock, Rowles and Webb declared a personal interest in Agenda item 5 by virtue of the fact that the members of staff affected by the proposed abolition of market supplements were known to them. As their interest was personal and not a disclosable pecuniary interest they determined to take part in the debate and vote on the matter. The Councillors also noted that they had been lobbied on this item).

The Committee considered a report (Agenda Item 5) which sought approval for the abolition of the Market Supplement Policy from 01 April 2014. Officers reported that if

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approved no new market supplements would be paid after the 19 February 2013 and existing market supplement payments would cease on 31 March 2013.

The Chairman announced that in accordance with paragraph 7.12.4 of the Constitution he would like to suspend standing orders in order to allow a member of staff and a representative of the trade unions to address the Committee. Once the addresses had been received standing orders would be reinstated and a debate on the general principles would be undertaken in the public meeting. Members would then discuss confidential matters under Part II. The Committee voted to approve this proposal.

Robert O' Reilly in introducing the report noted that market supplements had originally been introduced to increase the salary of individuals in particular jobs where it had been difficult to recruit to or retain employees in order to meet service needs. With a change in the economic climate it was no longer deemed necessary to continue to pay the enhancements in order to meet service needs.

Officers were concerned that the Council might be the subject of an equal pay challenge should these payments continue in the current job market. The concern was based on the fact that 70% of the Council's workforce was female and only 24% of those in receipt of market supplements were female.

A consultation exercise had been undertaken with those affected by the removal of the market supplement payments (this included members of staff as well as their managers) and the key issues that had emerged were:

- these employees were loyal and 'would go the extra mile' and this might not be the case if the payments were removed;
- the payments had been received for so long that the employees had come to regard them as a permanent part of their remuneration package;
- employees losing the supplements would suffer financial hardship.

Robert O' Reilly in responding to these concerns stated that as the additional payments were expressly referred to in their terms and conditions any implied permanence could not be substantiated. The Council had a duty to be fair to all employees and they could therefore not consider the financial situations of these individuals. If employees were being asked to undertake duties above those that could be expected of them this should be addressed by taking the job descriptions through the Job Evaluation process.

Councillor Peter Argyle queried whether these employees were informed at the time of their appointment that this was a temporary arrangement. Officers confirmed that they were.

Councillor Mollie Lock asked if any of the supplements had been removed historically. Officers explained that none had been removed but that at least four of the payments had been reduced since their inception.

Councillor Quentin Webb queried whether the market supplements were paid to all employees doing the same job or whether it was paid only to specific individuals. Officers explained that the market supplements would have to be paid to all employees doing the same job. Officers also informed Members that where employees were being paid market supplement because of the overtime they were working this should be addressed by paying them overtime or an honoraria as appropriate. These payments should not be paid under the auspices of a market supplement. Members were reminded that any overtime payments would have to be authorised by the manager before the additional hours were worked.

Councillor Tony Linden noted that a number of Trading Standards Officers had transferred over from Wokingham and he queried how the TUPE rules would impact on

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their payments. Mr O' Reilly explained that under TUPE regulations all existing terms and conditions transferred over with staff had to be retained. The terms and conditions of these employees stated that their payments were not permanent and could be withdrawn following consultation at the Council's discretion.

Councillor Adrian Edwards queried whether market supplements were impacted on by pay rises. Officers explained that market supplement payments were not affected by incremental or pay rises.

Members voted to suspend Standing Orders to allow Officers to address the Committee.

Dave Pearson (Union Representative) in addressing the Committee raised the following points:

- the trade unions thanked the committee for the opportunity to address them;
- he was speaking on behalf of both UNISON and the GMB unions;
- he would be focussing on two areas namely the general issues around market supplement payments and the specific issues associated with members of staff including those transferring over from Wokingham;
- the union would have opposed the introduction of the scheme should it have been introduced now and they would instead support roles being properly evaluated and compensated;
- they were therefore not objecting to the removal of the market supplements for new members of staff,
- in terms of the West Berkshire Council employees in receipt of market supplements the Unions were of the view that the scheme had not been properly operated as proper regular reviews and market testing had not been undertaken;
- the employees had been in receipt of regular payments for a significant number of years without regular reviews being undertaken and staff had therefore come to rely on the payments which had become an integral part of their income;
- this income had therefore become an implied employment condition and they therefore did not concur with the Head of HR's assertion that as the additional payments were expressly referred to in their terms and conditions any implied permanence could not be substantiated;
- The Union's Regional Office had been consulted and they were of the view, for the reasons set out above, there would be strong grounds to challenge the removal given the deficiencies in the way the scheme was operated;
- Members should be mindful of both their legal and moral duties;
- The Unions noted the staff comments about the negative impact on the financial situation of the affected individuals, the level of commitment they exhibited and their willingness to go the extra mile;
- It was noted that one of the employees had been in receipt of their market supplement for 15 years and it was therefore difficult to define this payments as temporary;
- The Unions reiterated that they were willing to accept the removal of the market supplement payments for new members of staff but that any employees that had been in receipt of the payment for five or more years should retain them;
- They were of the opinion that this was morally the correct decision to make as the scheme had not been operated properly;

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- If Members were minded to remove the supplements the Unions would request that the affected roles be subjected to the Job Evaluation process as a matter of urgency.

Robert O' Reilly supported the proposal to submit the roles to the Job Evaluation process should Members be minded to approve the proposal. He reminded Members that Officers would be given thirteen months notice before the supplements would be removed. Since he had taken over the role of Head of HR regular reviews had been undertaken and some of the payments had been reduced as a result of the reviews. He did not accept the argument that because the payments had been made for such a long time they overrode any terms and conditions expressly referred to in the individual's employment contracts.

Andy Best in addressing the Committee raised the following points:

- He was speaking on his own behalf but was also representing other colleagues in ICT affected by the proposal;
- Decreasing the salaries would lead to key members of staff leaving the organisation;
- This would lead to skills gaps for individual services and he therefore urged Members to reject the proposal;
- He believed the current system was working as it gave services the ability to recruit key workers in areas where it had proved difficult to recruit high calibre candidates;
- The payments had been periodically reviewed over the past few years;
- He did not concur with the evaluation of the job market, demand for staff in ICT was high and this was causing salaries to be inflated; he cited a recent difficulty experienced by his team in recruiting to a role as an example;
- The experience garnered by affected members of staff was critical to the Council;
- The Head of ICT and the ICT Senior Management Team did not support the proposal to remove the payments;
- They did not support the contention that salary survey information was not readily available; they had managed to obtain information easily and they would be happy to share this information with HR;
- Implementation of the scheme would result in significant hardship for the affected individuals but it would also result in significant damage to the ICT Service as a whole;
- They accepted that the Council was facing difficult financial decisions but creating savings by the removal of these payments would be a false economy;
- ICT had a good track record of driving costs down and the proposals were targeting the roles that had made this possible;
- A lot of support had been received from colleagues that were not affected by the proposals and he therefore urged Members to reject the proposal;
- He thanked the Committee for the affording him the opportunity to address them.

In response to a query from Councillor Peter Argyle, Andy Best explained that the Council's Job Evaluation process did not take market forces into account. Therefore even if the roles were to be evaluated the issue of being able to attract suitable candidates for roles would not be addressed given the competition that existed in the private sector for these types of roles.

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Councillor Quentin Webb noted that the Union's perception of the review process did not accord with Mr Best's. He responded that that for a decade or so the reviews had not taken place but over the past few years the payments had been reviewed every two years.

Councillor Adrian Edwards queried whether employees had given any indication that they might leave the Council should the payments cease. Mr Best report that anecdotal evidence suggested that this would be the case. Councillor Edwards also noted that there would be costs associated with training new members of staff should the existing employees chose to leave the Council and this needed to be factored into any cost analysis.

Andy Best was of the opinion that each case needed to be reviewed on an individual basis and he was therefore not in a position to comment on the Union's proposal to restrict the continuation of payments to those that had received it for longer than five years.

Robert O' Reilly reminded Members that market supplement payments had to be applied to groups of roles. In the ICT service there were a large number of unique posts and they had therefore benefitted from the scheme. In other areas where it had proved difficult to recruit to posts e.g. social workers it was not financially possible to adopt the same scheme. Members also needed to be mindful of the fact that ICT tended to employ more men than women and that the majority of social workers were female. He therefore reiterated concerns about equal pay challenges to the Council.

Councillor Quentin Webb asked Mr O' Reilly to comment on the assertion from Mr Best that the information about salaries was readily available. The Head of HR noted that due to the unique job titles of these types of roles the job descriptions and person specifications had to be looked at in a very granular level and it was very difficult to obtain that level of information. An attempt was made to obtain this information from neighbouring authorities in order to make a comparison and this had not generated all the information that was required. Andy Best suggested that it was very risky then to make a decision based on assumptions that might not be accurate.

It was noted that other organisations that employed IT staff paid market supplements in order to attract employees with the required level of experience and knowledge of systems. Councillor Quentin Webb noted that it was difficult to make comparisons between commercial organisations and local authorities as local authorities were required to publish pay scales which private sector organisations were not required to do. Robert O' Reilly noted that employees in the private sector received bonuses and other perks and it was therefore difficult to make a like for like comparison.

Councillor Quentin Webb thanked staff for the information they had provided and for their contribution to the discussion.

Members voted to resume Standing Orders.

Councillor Tony Linden noted that Members would need to take into account the needs of individual services such as ICT against the implications of retaining the policy for the Council as a whole. Councillor Adrian Edwards was concerned that employees, when they had accepted the job offer, had been attracted by the whole package and they had an expectation that this would continue irrespective of the conditions in their contracts. Employees were highly likely to receive better packages in the private sector and the Council was therefore likely to lose experienced employees. Councillor Peter Argyle commented that it might be difficult to attract the right calibre of applicants for roles if the Council was not paying competitive salaries.

The meeting was adjourned from 12.30 to 12.32 to allow members of staff and the press to leave prior to the meeting moving into a confidential session.

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17. Exclusion of Press and Public

RESOLVED that members of the press and public be excluded from the meeting for the under-mentioned item of business on the grounds that it involves the likely disclosure of exempt information as contained in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the [Local Government \(Access to Information\)\(Variation\) Order 2006](#). [Rule 9.10.4 of the Constitution also refers](#).

18. Market Supplement Review

(Councillors Argyle, Linden, Lock, Rowles and Webb declared a personal interest in Agenda item 7 by virtue of the fact that the members of staff affected by the proposed abolition of market supplements were know to them. As their interest was personal and not a disclosable pecuniary interest they determined to take part in the debate and vote on the matter. The Councillors also noted that they had been lobbied on this item).

The Personnel Committee considered an exempt report (Agenda Item 7) which sought approval for the abolition of the Market Supplement Policy from 01 April 2014. Officers reported that if approved no new market supplements would be paid after the 19 February 2013 and existing market supplement payments would cease on 31 March 2013.

RESOLVED that:

- 1. the proposal to abolish the Market Supplement Policy from 1st April 2014 be approved.**
- 2. no new market supplements will be made after 19th February 2013.**
- 3. all existing market supplement payments will cease on 31st March 2014.**
- 4. all exiting posts affected by the scheme to be re-evaluated within two months of the decision.**

Councillor Andrew Rowles requested that his vote against recommendation 3 being approved be recorded.

(The meeting commenced at 11.30 am and closed at 1.15 pm)

CHAIRMAN

Date of Signature