

# **PERSONNEL COMMITTEE**

## **MINUTES OF THE MEETING HELD ON WEDNESDAY, 28 MAY 2014**

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

**Also Present:** Sean Anderson (Head of Customer Services), Rosemary Culmer (Unison Secretary/Staff Co-ordinator), Jane Milone (Human Resources Manager), Robert O'Reilly (Head of Human Resources), David Pearson (Unison Chair), Stephen Chard (Policy Officer) and Paul Watkins (NASUWT)

### **PART I**

#### **1. Minutes**

The Minutes of the meetings held on 4 February 2014 and 15 May 2014 were approved as true and correct records and signed by the Chairman.

#### **2. Declarations of Interest**

Councillors Tony Linden, Andrew Rowles and Quentin Webb declared an interest in Agenda Item 5, but reported that, as their interest was personal and not prejudicial or a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.

#### **3. Recognising Continuous Service with Academy Schools (PC2774)**

The Committee considered a report (Agenda Item 4) which proposed a reversal of the current policy of the Council not to recognise continuous service with academy schools for the purpose of occupational benefits.

Robert O'Reilly introduced the report and reminded Members of the Personnel Committee's decision in 2011 to approve a policy for the Council not to recognise continuous service of employees working in academy schools for the purpose of calculating entitlement to occupational benefits such as sick pay, maternity/paternity/adoption pay and leave, and annual leave. This decision was taken at a time when the potential for a local authority maintained school to convert to academy status was relatively new and there were concerns at the time as academies could alter the terms and conditions of its employees from the terms and conditions used in maintained schools.

In August 2013, trade unions, via the Joint Consultative Panel (JCP), requested that the Personnel Committee review the policy for reasons including the concern that the policy prevented schools from recruiting the best people, as those working in an academy were being put off by the fact that they would not have their academy service recognised for the above mentioned occupational benefits. Headteachers had also highlighted this as a barrier to recruitment. In addition, the potential for an academy to alter the terms and conditions of staff had not been an issue.

Councillor Peter Argyle queried whether the continuous service of teachers in private schools was recognised. Robert O'Reilly confirmed that this was not the case and academy staff were, at present, considered in the same way as someone working in a private school. This would also be the case for free schools.

## PERSONNEL COMMITTEE - 28 MAY 2014 - MINUTES

Councillors Quentin Webb and Mollie Lock reported that as Members of the JCP they were present for the JCP discussion on this matter.

At the JCP, trade unions had requested to attend Personnel Committee to put forward their views and Members agreed to suspend standing orders to allow the representatives to do so.

Councillor Webb welcomed the trade union representatives to the meeting and invited them to make their points.

David Pearson made the following points on behalf of Unison:

- The Unison members to whom this report related were primarily support staff working in schools. He was pleased to note the recommendation of the report to recognise service in academy schools which would be advantageous to both staff and schools. Headteachers had also given their support to the recommendation.
- Approval of the Officer recommendation would show support and appreciation to loyal members of staff, many of whom had worked in a local authority school for some years and had no control over becoming a member of staff of an academy. Therefore, their academy service should be recognised.
- The change to the policy would have minimal cost impact on the Council and schools.

Councillor Tony Linden queried whether the service of staff who worked in a free school should also be recognised. David Pearson explained that the concern of trade unions was in relation to staff who had been TUPE'd (Transfer of Undertakings (Protection of Employment)) to academies at short notice. Free schools had not been a consideration of previous discussions, but further debate could be held by the JCP and/or Personnel Committee if this was felt necessary in future. Robert O'Reilly confirmed that TUPE would not apply to an individual working at a free school.

Paul Watkins, representative of the teaching union (NASUWT), but also speaking on behalf of other teaching unions, made the following points:

- He gave his strong support to the recommendation outlined in the report. He was an employee of a West Berkshire Council maintained school which converted to an academy and was of the hope that his academy service would be recognised if he was to move to a maintained school.
- The view of the JCP was sensible as the landscape had changed from the time when academies were first introduced and only a small number existed, as many of West Berkshire's secondary schools had since become academies.
- Mr Watkins was pleased to note the support of Headteachers. He also commented that West Berkshire was an expensive place to live and work and there should be no additional barriers to recruitment.

Rosemary Culmer, also speaking for Unison, was pleased that the policy was being reconsidered.

Councillor Lock referred to paragraph 3.2 of the report which stated that as of October 2013, four out of five of the other Berkshire unitary authorities had chosen not to recognise academy service and questioned whether this was still the case. Robert O'Reilly confirmed this was still the position, but felt it was likely that other local authorities would follow the Council's proposals to recognise academy service.

## PERSONNEL COMMITTEE - 28 MAY 2014 - MINUTES

Councillor Webb was of the view that the proposals had a number of positive benefits which far exceeded concerns. He then referred to paragraph 4.3 of the report which gave two options for recognition of academy service:

- (1) Recognise service in West Berkshire academies only; or
- (2) Recognise all academy service

Option two was recommended by Officers and this was proposed for acceptance by Councillor Webb. Councillor Linden seconded the proposal which was then approved.

Councillor Webb highlighted the importance of supporting school staff and recognising both their work and length of service.

Councillor Linden queried how this decision would be publicised. Robert O'Reilly advised that it would be reported as part of the HR schools newsletter. David Pearson added that it would be circulated to trade union representatives.

**RESOLVED** that the current policy of the Council would be changed to allow recognition of service in all academy schools for occupational benefits.

Members agreed to reinstate standing orders.

#### 4. Local Government Pension Scheme 2014 Policies (PC2826)

*(Councillors Tony Linden, Andrew Rowles and Quentin Webb declared a personal interest in Agenda item 5 by virtue of the fact that they were members of the Local Government Pension Scheme. As their interest was personal and not prejudicial or a discloseable pecuniary interest they were permitted to take part in the debate and vote on the matter).*

The Committee considered a report (Agenda Item 5) which proposed the Council's policy in relation to a number of the Local Government Pension Scheme (LGPS) Regulations.

Robert O'Reilly explained that with effect from 1 April 2014, the LGPS Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 came into force. Under these Regulations, it was a requirement of LGPS employers to prepare, maintain and keep under review a statement of policy concerning a number of discretions made available throughout the Regulations. The report and its appendices outlined the changes required and made a number of recommendations for Member's consideration. The recommendations took into account the views expressed by Management Board Members. Advice had also been sought from the Royal Berkshire Pension Fund.

##### **LGPS 2013 Regulation 16 – Additional Pension Contributions**

Recommendation: not to fund an employee's additional pension contributions. Robert O'Reilly commented that funding an employee's additional pension contributions had not previously been the Council's practice and it was not felt that a change would be necessary.

**RESOLVED** that the recommendation be agreed.

##### **LGPS 2013 Regulation 30(6) – Flexible Retirement**

Recommendation: to accept applications where there was no cost to the employer subject to there being no detrimental impact on the service. Robert O'Reilly commented that this was a significant change to the LGPS as it enabled a LGPS employee to retire at the age of 55, with reductions to their entitlement. This was currently at the age of 60.

*(Councillor Tony Linden left the meeting at 2.56pm).*

## PERSONNEL COMMITTEE - 28 MAY 2014 - MINUTES

Jane Milone added that, if approved, the Council's retirement procedure would be amended to reflect this.

**RESOLVED** that the recommendation be agreed.

### **LGPS 2013 Regulation 30(8) – Waiving of Actuarial Reduction**

Recommendation: that a decision to waive any actuarial reduction would only be considered where there would be a financial or other benefit to the employer.

**RESOLVED** that the recommendation be agreed.

### **LGPS 2013 Regulation 31 – Award of Additional Pension**

Recommendation: not to award additional pension except in the following circumstances:

Additional pension under regulation 31 might be awarded to an employee who would otherwise be eligible for a lump sum compensation payment under the WBC Discretionary Compensation policy. Where the employee agreed to forgo the lump sum payment (in excess of any statutory redundancy compensation) that would otherwise have been paid, the Council would award additional pension actuarially equivalent in value to the lump sum compensation payment, provided that the additional annual pension would not exceed the statutory limits.

*(Councillor Linden returned to the meeting at 2.59pm).*

Jane Milone explained that approval of this recommendation would offer employees the opportunity to invest in their LGPS, with no additional cost to the Council. This was in line with current policy.

**RESOLVED** that the recommendation be agreed.

### **LGPS (Transitional Provisions and Savings) 2014 Schedule 2; (2) and (3) – Switching on the 85-year Rule**

Recommendation: any decision to 'switch on' the 85-year Rule would only be considered where there would be a financial or other benefit to the employer on each occurrence as it arose subject to the financial implications.

**RESOLVED** that the recommendation be agreed.

### **LGPS 2013 Regulation 9(1) (3) - Contributions**

Recommendation: to set employee contribution rates at 1 April each year and make no changes throughout the year. Robert O'Reilly pointed out that differing ranges of contribution were in place. Sean Anderson added that employees had the right to appeal the decisions made. This would be determined by the Section 151 Officer and, if necessary, by the Local Government Ombudsman.

**RESOLVED** that the recommendation be agreed.

### **LGPS 2013 Regulation 17(1) – Shared Costs Additional Voluntary Contributions**

Recommendation: not to apply this discretion.

**RESOLVED** that the recommendation be agreed.

### **LGPS 2013 Regulation 22(7) 22(8) – Merging of Deferred Member Pension Accounts with Active Member Pension Account**

Recommendation: to allow an active member to elect not to aggregate a deferred member's pension account to an active member's pension account beyond the 12 month deadline only where there was no financial risk to the employer and it was of benefit to the member.

## PERSONNEL COMMITTEE - 28 MAY 2014 - MINUTES

**RESOLVED** that the recommendation be agreed.

### **LGPS 2013 Regulation 100(6) – Inward Transfers of Pension Rights**

Recommendation: to not extend the 12 month deadline.

**RESOLVED** that the recommendation be agreed.

### **LGPS 2013 Regulation 21(5) – Assumed Pensionable Pay**

Recommendation: each case would be examined at the appropriate time. Robert O'Reilly explained that this related to 'regular lump sum payments' and contribution rates would apply.

**RESOLVED** that the recommendation be agreed.

### **LGPS 2013 Regulation 74 – Applications for Adjudication of Disagreements**

Recommendation: the Council appoint Andy Walker (Section 151 Officer) as the Adjudicator for this purpose. Jane Milone advised that it was a recommendation of the LGPS to name the responsible individual.

**RESOLVED** that the recommendation be agreed.

## **5. Personal Relationships at Work Policy (PC2811)**

The Committee considered a report (Agenda Item 6) which proposed the adoption of a policy which set out how the Council would deal with close personal relationships at work which might involve, or be perceived to involve, conflicts of interest.

Councillor Quentin Webb queried to whom an employee would disclose a personal relationship and the format for doing so. Jane Milone explained that an officer would need to disclose the information and seek a view from their line manager (or the next tier of management if the relationship was with the line manager). The line manager would seek further advice if necessary.

The policy had been drafted at the request of Corporate Board to ensure clear guidance was in place to help protect employees. Many other local authorities already had a policy in place for reporting relationships both within the organisation and with contractors.

Elements of the draft policy already existed in the Officer Code of Conduct and as part of the Council's recruitment processes. The policy would bring together the necessary elements into one place, but it was not the intention to significantly change existing arrangements.

In terms of the actual format for disclosing information, it was Robert O'Reilly's general expectation that, following discussion between the employee and their line manager, it would be put in writing in an e-mail and a note placed on the individual's HR file.

Councillor Adrian Edwards stated that he was very uncomfortable with the proposals outlined in the report and could not support the recommendation to adopt a policy. He felt the need for a policy was a concern in terms of human rights and was overly bureaucratic when considering that a Code of Conduct was already in place.

Robert O'Reilly agreed this was a sensitive issue, but reiterated that elements of the draft policy were already in existence in other documents and the policy would serve to bring this together in one place as requested by Corporate Board.

Councillor Edwards queried whether this applied to relationships between Councillors and employees of the Council/Council contractors. Robert O'Reilly explained that as Councillors were elected they were not subject to contract rules of procedure. However, Councillors had their own Code of Conduct to adhere to.

## PERSONNEL COMMITTEE - 28 MAY 2014 - MINUTES

Robert O'Reilly acknowledged the concern in relation to human rights, but assured Members that a similar policy was in place in other local authorities and the Council's draft policy took into account guidance from the Council's on-line employment law provider (XpertHR). However, if the policy was not approved then current arrangements would continue.

Councillor Andrew Rowles queried whether consideration was needed in relation to an employee's membership of an external organisation. Jane Milone advised that employees would need to consider how any relationship or membership could be perceived externally in terms of decision making.

Jane Milone advised that trade unions had been consulted and comments were received, but this only led to minor amendments to the draft policy. A suggestion of Unison was to include some guidance as an appendix which could consist of examples of actions to take in certain scenarios by employees and managers. This was something which could be provided.

Councillor Mollie Lock referred to paragraph 1.3 of the covering report and agreed it was important to strike a balance between intrusion into the personal lives of employees and the organisation's ability to address justified concerns.

Councillor Edwards felt that the integrity of managers and employees should be relied upon, and the need to report a personal relationship should be covered as part of existing policies when necessary.

Robert O'Reilly agreed there was a need for a common sense approach, but restated the view of Corporate Board that there was a need for a formal mechanism to report personal relationships.

Councillor Webb queried whether there was potential to strengthen the Code of Conduct and other processes as opposed to forming a new policy. Jane Milone advised that the Code of Conduct was not owned by HR.

Councillor Peter Argyle advised that he was sympathetic to the views of Councillor Edwards. However, he was not overly concerned at the proposal to adopt the policy which would serve to tidy up current documents/processes. Councillor Lock felt that the existence of a single policy would make referencing easier for employees and managers.

Councillor Rowles expectation was that a degree of common sense would be exerted in terms of recruitment and work with contractors, and these processes could be managed appropriately through the Code of Conduct. He then queried whether there were examples of issues being caused by a close personal relationship. Robert O'Reilly advised that no issues had been formally highlighted, but there was anecdotal evidence of staff members feeling disadvantaged as a result of relationships between colleagues.

Councillor Tony Linden gave his support to the recommendation to adopt a policy.

Councillor Edwards did not support the recommendation. He felt it would be an unnecessary intrusion, it raised concerns of human rights and it was already managed by existing policies.

Councillor Rowles felt there was scope to review the policy if there was agreement to adopt it or reconsider the decision in a year's time if it was not adopted.

Councillor Edwards proposed to reject the Officer recommendation to adopt the policy. This was seconded by Councillor Rowles with a request that the decision be reviewed and reconsidered in a year's time. Councillor Edwards accepted this addition to his proposal.

The proposal was lost on the Chairman's casting vote.

**PERSONNEL COMMITTEE - 28 MAY 2014 - MINUTES**

Members then considered approval of the Officer recommendation to adopt the policy and this was approved on the Chairman's casting vote. Councillor Edwards requested that his vote against the Officer recommendation be recorded.

**RESOLVED that** the Personal Relationships at Work Policy be approved.

**6. Date of Next Meeting**

Potential dates for the next meeting would be circulated when necessary.

*(The meeting commenced at 2.30pm and closed at 3.46pm)*

**CHAIRMAN** .....

**Date of Signature** .....