

Notice of Meeting

Personnel Committee

Friday, 21st October, 2016 at 2.00 pm
in Committee Room 1 Council Offices
Market Street Newbury

Date of despatch of Agenda: Tuesday, 11 October 2016

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Moira Fraser / Janet Giddings on (01635) 519045 / 519422
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Further information and Minutes are also available on the Council's website at www.westberks.gov.uk



To: Councillors Pamela Bale (Chairman), Dennis Benneyworth, Richard Crumly (Vice-Chairman), Mollie Lock and Ian Morrin

Substitutes: Councillors Lee Dillon, Billy Drummond, Paul Bryant and Virginia von Celsing

Agenda

Part I

Page No.

1. **Apologies for Absence**
To receive apologies for inability to attend the meeting (if any).
2. **Minutes** 5 - 14
To approve as a correct record the Minutes of the meeting of the Committee held on 30 June 2016.
3. **Declarations of Interest**
To remind Members of the need to record the existence and nature of any Personal, Disclosable Pecuniary or Other Registrable interests in items on the agenda, in accordance with the Members' [Code of Conduct](#).
4. **Appointment of the Council's Monitoring Officer (PC3178)** 15 - 16
To invite the Personnel Committee to appoint an interim Monitoring Officer for West Berkshire Council with effect from 1 November 2016.
5. **Political Restricted Posts Policy and Guidance (PC3199)** 17 - 36
To inform Personnel Committee of the revised Politically Restricted Posts Policy and Guidance before it is taken to the Chief Executive for approval.

Andy Day
Head of Strategic Support

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.



DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

PERSONNEL COMMITTEE

MINUTES OF THE MEETING HELD ON THURSDAY, 30 JUNE 2016

Councillors Present: Pamela Bale (Chairman), Dennis Benneyworth, Paul Bryant (Substitute) (in place of Richard Crumly) and Mollie Lock

Also Present: Robert O'Reilly (Head of Human Resources), Stephen Chard (Policy Officer) and Moira Fraser (Democratic and Electoral Services Manager)

Apologies for inability to attend the meeting: Councillor Richard Crumly

Councillor Absent: Councillor Ian Morrin

PART I

4. Minutes

The Minutes of the meetings held on 05 October 2015 and 19 May 2016 were approved as true and correct records and signed by the Chairman subject to the inclusion of the following amendment:

Meeting 05 October 2016: Item 5 (Review of the Redundancy Multiplier) Page 6, Paragraph 2:

Councillor Mollie Lock asked that the words “but added that she thought that it was unfair for employees that had worked at the Council for many years to suffer as a result of the decision.” be inserted after “Councillor Mollie Lock concurred with this view.”

It was noted that as Councillor Mollie Lock was the only Member of the current Committee that was also present at the October 2015 meeting, the Chairman asked her to confirm that they were an accurate record of the meeting. Councillor Lock confirmed that subject to the inclusion of the amendment set out above they were and, on that basis, Members voted to approve the amended minutes.

5. Declarations of Interest

There were no declarations of interest received.

6. Review of Discretionary Compensation for Redundancy (PC3139)

Prior to the start of the discussion Councillor Pamela Bale stated that, as with any organisation she had worked at, the staff at West Berkshire Council (WBC) were one of its greatest assets. However, Members had to balance the needs of the organisation, the requirements of staff and the Council's financial position. This situation was exacerbated as the Council did not manufacture goods that it could sell but was instead reliant on income from Council Tax, Business Rates and Central Government Grants.

The Council had recently had to make a number of difficult decisions in order to balance income and expenditure. The decision presented to Members at this meeting was not an easy one for them to make but any costs incurred by the Council, including staff costs, had to be realistic and affordable. She stated that if Members were minded to approve the Officer's recommendation then it should not be seen to be indicative of Members not

PERSONNEL COMMITTEE - 30 JUNE 2016 - MINUTES

valuing staff. The Committee was being asked to ensure that employees received a reasonable level of compensation when asked to leave the organisation.

Robert O'Reilly introduced the report which considered a change to the way in which the Council used its discretion to enhance redundancy payments. He explained that the report also addressed issues that had been raised at the October 2015 meeting including queries around augmentation and insufficient detail in the Equality Impact Assessment.

He explained that the cost of making local authority employees redundant was based on the redundancy payment (which local authorities had the discretion to enhance beyond the statutory minimum) and any costs incurred by the pension fund for automatic early retirement of pension scheme members aged 55 or over. Each local authority had to publish its policy on how it would use these discretions. The key discretions available were to calculate the payment using actual weekly pay rather than the statutory maximum (which was £479 per week in 2016), and to pay an amount up to 104 weeks' pay (the statutory maximum was 30). Statutory redundancy pay for each individual would depend upon age and length of continuous local government service.

West Berkshire Council had initially used its discretion to use actual weekly pay and to multiply the statutory number of weeks by three (making the maximum payment 90 weeks' pay). In 2011, it reduced the multiplier to two, making the maximum payment 60 weeks' pay.

In Spring 2016, a survey of 33 neighbouring authorities was undertaken to establish their approach to discretionary compensation for redundancy. Twenty authorities had responded and the responses were summarised in Appendix D to the report. Practice varied in relation to using actual week's pay, applying any enhanced weeks to volunteers for redundancy, or those who were entitled to an immediate pension, and to whether a flat rate of weeks or a multiple of the statutory number of weeks was used. A mean average 'redundancy multiplier' was calculated using only the 13 local authorities which used actual weekly pay and a multiple of the statutory weeks. The average multiple of statutory weeks used was 1.42.

In 2015/16 the total cost of redundancies was £155,695 and had included four early retirements. The Head of Human Resources (HR) explained that although the report stated that if the redundancy multiplier used had been 1.5 instead of 2, then the Council would have saved £28,351 (18% of the cost), after the figures had been revisited it was established that this would have been closer to £34k.

Mr O'Reilly explained that in respect of the Equality Impact Assessment (EIA), it should be noted that the proposed policy would be detrimental to all employees and did not have a greater impact on individuals protected under the equality legislation. He accepted that some groups of people that were protected by the legislation might find it more difficult to find employment in general but that this was a societal issue and not within the remit of the EIA.

The Head of HR commented that one of the dilemmas that Members were faced with was set out in paragraph 6.4 of Appendix A to the report. It highlighted that a relatively generous redundancy payment scheme made it more likely that employees would volunteer for redundancy. However, this benefit needed to be set alongside the financial position of the Council and the potential savings that could be made by a reduction in the multiplier.

It was noted that the Council might need to review its approach to redundancy compensation once the Government published new legislation (expected in the current year) on caps on severance payments and changes to the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 (DCR) and

PERSONNEL COMMITTEE - 30 JUNE 2016 - MINUTES

pension arrangements in the public sector. However, the timetable for this had not yet been established and the Council needed to make a decision now under the current arrangements in order to be able to implement a fair and balanced approach to redundancy payments.

Councillor Paul Bryant queried whether the conditions were the same for employees that undertook voluntary redundancy when compared to those subjected to compulsory redundancy. Officers confirmed that they were.

Councillor Pamela Bale informed those present that under paragraph 7.3.6 of the Constitution she had consented to allow the Portfolio Holder for HR to address the Committee.

Councillor James Fredrickson, the Portfolio Holder with responsibility for HR, commented that the report set out a recommendation to reduce the multiplier the Council used to calculate redundancy compensation payments, from 2 to 1.5 times the statutory number of weeks' pay, with effect from 1st September 2016. When the Personnel Committee previously considered a review of the Redundancy Multiplier in October 2015, comments had been made that the Equality Impact Assessment had not been adequately completed and that some additional analysis of organisations in a similar position to West Berkshire Council should be undertaken.

Since then the Council's financial position had been widely publicised. He reminded the Committee that over the next three to four years the Council would have to make significant additional savings. Portfolio Holders and staff across the Council were currently looking at ways to deliver the level of savings required. Members were therefore having to balance a range of very difficult decisions.

The mandate that Members worked to when considering savings were that they looked at savings that affected the fewest number of people and they looked at areas where the Council was generous in its provision. Councillor Fredrickson explained that had the multiplier been reduced to 1.5 in the previous financial year it would have impacted on 0.01% of the individuals made redundant during that time period. He reminded Members that the reduction only impacted on the discretionary element of the payment and not the entire package. A comparison of the 17 people showed a reduction of 18% totalling £34k if the multiplier had been reduced to 1.5 in 2015/16. He acknowledged that this was only a small amount when viewed in the context of the savings required but that a number of smaller amounts would all add up.

Councillor Fredrickson commented that in the ideal world the Council would like to be as generous as possible. However returning to the mandate that where difficult decisions had to be made the Council would take situations where provision was generous to average rather than to austere, in reducing the multiplier to 1.5 the Council would still be above the average of 1.42 of the comparator group. Councillor Fredrickson added that it was not proposed to further reduce the multiplier to 1.0 as was proposed in the October 2015 report.

On a personal level as the Portfolio Holder, Councillor Fredrickson reported that he worked with Officers on a daily basis and that he considered some of them as friends. He would therefore not want to make this decision and would like to be as generous as possible. He felt that as the level proposed was still above the average for the comparator group he was comfortable proposing that the Committee accept the Officer recommendation.

The Chairman reported that a request had been submitted by the Unions to allow them to address the Committee and also to allow Officers present to address the Committee. Councillor Bale explained that in order to allow this it would be necessary to suspend

PERSONNEL COMMITTEE - 30 JUNE 2016 - MINUTES

standing orders under paragraph 7.12.4 of the Constitution. Members voted to agree to the request.

Nikki Dancey, GMB Branch Secretary for Berkshire and North Hampshire, stated that GMB were in favour of the comments made by their Unison colleagues in the document circulated to Members outside of the meeting. She noted that Councillor Fredrickson had made comments relating to generosity and noted that the UK was already in a state of austerity. The rules around redundancy in the UK were harsher on workers in the UK than in other developed countries. Ms Dancey stated that WBC should not become involved in a 'race to the bottom' in terms of redundancy payments to staff.

Ms Dancey reminded Members that in May 2015 they had voted in favour of a pay rise of 16% for themselves and that she could not see any justification for this action in light of that decision. She explained that she was supporting workers in schools at the moment that were being made redundant. They had been provided with an estimate of redundancy payments but that these would now be lower than expected. This would create additional stress and anxiety for workers that were often lower paid and often women.

GMB had started a petition in response to the proposal being presented at this meeting. To date it had received 250 signatures from employees and also members of the public.

Comments received included the following:

- It was upsetting that jobs were being lost and the feeling was being exacerbated by the fact that staff would now receive less compensation than before;
- The current climate might mean it would be more difficult to find employment and the redundancy payment was designed to provide income during these periods of unemployment;
- Being made redundant was a frightening prospect and even more so for households with only one income;
- A decision to reduce the multiplier at a time when more staff were being made redundant was outrageous and immoral;
- This decision would make a mockery of the Council's Investors in People status;
- Being made redundant created hardships in terms of paying rent or meeting mortgage payments which could have a knock on effect on other Council services;
- This decision could have an impact on staff morale and consequently on services provided to stakeholders.

Ms Dancey commented that the result of the EU Referendum might generate additional unemployment in the area which would make it harder to find employment and she therefore urged Members not to vote in favour of the recommendation.

Stephen Chandler, also from GMB, stated that local Conservative Members could not distance themselves from the policies emanating from Central Government. This was yet another proposal in a long line of attacks on Council employees who had been subjected to job cuts and pay freezes and the associated stress this had caused.

David Pearson thanked Members for allowing the trade unions and staff to make comments on the proposals. He noted that Unison represented around 60% of the Council's workforce but that not all those present were union members. He stated that WBC employees were loyal, hard working and willing to go the extra mile for residents and that Members should be proud of them and value them.

Mr Pearson understood that the Council needed to make additional savings totalling round £22m over the next three to four years and therefore further cuts were inevitable. He stated that the chances were that some employees in the meeting would be made

PERSONNEL COMMITTEE - 30 JUNE 2016 - MINUTES

redundant and this proposal would indicate to them that they were worth less than employees that had already been made redundant.

He commented that the most recent Staff Satisfaction Survey had highlighted that staff did not feel valued. The Chief Executive had been tasked with addressing this concern and this proposal was likely to have a negative impact on that work. This decision would send a clear signal to staff that they were not valued. He urged Members to show employees that they were valued by supporting them in their lowest hour.

UNISON's Branch Executive had asked members to comment on the proposal to reduce the multiplier from 2 to 1.5 and 84 responses had been received, some from individuals and some on behalf of groups. Some of the comments had been set out in the document circulated to Members outside of the meeting. In summary they stated that staff felt betrayed, under valued and that accepting the proposal would affect workers commitment and their relationship with their employer. He was concerned that adopting this proposal could signal a change in the attitude of the workforce.

Mr Pearson highlighted that many employees already worked a significant number of additional hours that they were not paid for and that the Council could not continue to function as well as it did without that contribution from workers. This unpaid overtime would be difficult to quantify and cost.

Being made redundant had a huge psychological impact on an employee. An average payment would provide sufficient income for two to three months and as had already been alluded to the local job market was likely to become more difficult to navigate.

David Pearson noted that the number of authorities in the comparator group (13) was probably statistically unreliable. However as this information had been presented to Members it was interesting to note that five of the thirteen authorities still had a multiplier of two and therefore retaining the Council's current level would not put them out of kilter with their comparator group.

He noted that the report at paragraph 6.2 stated that in 2015/16 a total of £127,237 was paid in redundancy payments to 17 employees and a reduction in the multiplier from x 2 to x 1.5 would have saved £28351 or £34k as presented at the meeting (18% of the total cost). That was an average of £1674 per employee. These savings were minute compared to the overall savings the Council needed to make and such a small saving could be seen as penny pinching whilst, in contrast, every penny counted to those who faced losing their jobs and an uncertain future.

In terms of unpaid overtime one employee had calculated that over the past twelve months they had accrued around 400 additional hours which would have cost the Council £8k. It would only take 4 employees working similar hours to eradicate the £34k savings generated by this proposal. Staff currently worked this overtime as a good will gesture and he queried whether Members really wanted to threaten that. Members were risking a lot to save £34k.

The staff comments attached in the consultation response spoke volumes for how staff viewed this proposal to reduce the multiplier from x 2 to x 1.5. The Council was at a tipping point in terms of its relationship with its employees. Due to previous rounds of redundancies the Council was relying on the goodwill of staff to work extra unpaid hours to keep services running. Endorsing this proposed change, to save a paltry amount of money, would be a slap in the face to staff who were working so hard to keep services going and who still faced an uncertain future in terms of yet more cuts and further redundancies to come.

The minutes showed that at the meeting of the Personnel Committee on 5th October 2015 Councillor Peter Argyle stated that 'he could appreciate that a reduction in the

PERSONNEL COMMITTEE - 30 JUNE 2016 - MINUTES

multiplier level would be seen as a betrayal by existing employees...' and Councillor Mollie Lock agreed with this view. The minutes also stated that 'Councillor Adrian Edwards questioned the ethics of changing the multiplier...' and that Councillor Tony Linden 'concurred with the views expressed by his colleagues'.

UNISON's members queried what had changed since those comments were made. The moral and ethical issues remained the same, the savings to be made were minute but the long term negative impact on the Council's relationship with its staff would be very damaging to the effective delivery of services and to the retention of key staff, and the report itself indicated that 5 nearby authorities of the 13 who were deemed to be equivalent comparators enhanced redundancy payments by a multiplier of x 2.

He concluded by saying that UNISON requested that Members reject the proposed reduction of the redundancy multiplier from x2 to x 1.5 and by doing so showed staff that they did respect and value their hard work and loyalty, that they were not seeking to make staff easily disposable and that they would stand by them and support them as much as possible when they lost their jobs through redundancy.

Councillor Mollie Lock commented that all Members valued staff. In response to Councillors accepting the 16% pay rise she commented that some Members had offered to forgo the increase and instead opted to put the money into their wards. Members had opted not to take their linked pay increase this year and that the saving would be placed into the Council's general coffers.

Angela Creed commented that in her view the EIA was incomplete and that the impact of the age of an employee on their level of payment had not been adequately considered. Robert O' Reilly noted that the statutory calculation for redundancy compensation increased with age as well as service. He accepted that it was harder for older people to find re-employment but as previously stated it was not the role of the EIA to address societal issues.

Mark Cole commented that he was not a union member but that as someone employed in the public sector for forty years and at WBC for 16 of those years he wished to address the Committee. In his opinion morale was lower than he had ever known it to be and staff felt less valued than ever before. He appreciated that the Council was faced with a number of very difficult decisions as a result of the funding cuts from Central Government and the likelihood was that the Council would be faced with even more redundancies. This proposal looked like penny pinching in light of the £22m of savings that had to be made over the next three years. During these difficult times the Council should be supporting their staff not 'kicking them'. This was an opportunity to show staff that they were valued. Members needed to reject the proposal or risk losing the respect of the workforce.

Jacque Chambers stated that once a multiplier of 1.5 was agreed it would only be a matter of time before Members would be proposing a further reduction to 1.

Sue Tarn commented that she too had concerns with the EIA. It was difficult for people with disabilities to find employment. She accepted that this might be a societal issue but that the Council should not be adding to that hardship. Disabled employees that were made redundant might find it even more difficult to find alternative employment which was morally wrong. This was not reflected in the EIA and therefore it should be deemed to be factually wrong.

Steve Masters, a GMB member and also a member of the Save our Services campaign, asked how Members could justify approval of this proposal in light of the 16% increase in their basic allowance that they had voted in favour of at the May 2015 Council meeting. At the time of accepting the increase Members had argued that it was necessary to do so

PERSONNEL COMMITTEE - 30 JUNE 2016 - MINUTES

in order to attract a wider range of Councillors. The additional cost of £50k resulting from that increase could easily have off set the cost of this proposal. He opined that Members' priorities were skewed. He noted that many hard working and dedicated employees regularly worked several additional hours a week that they were not paid for in order to provide services to residents. Rejecting this proposal would show staff that they were valued.

James Gore commented that this change would merely be shown as a line in a budget book and would not reflect the whole story. A number of staff already sacrificed a lot for the Council and an assessment of this activity should be undertaken. Before reaching a decision Members should be aware of the value of this invisible labour that they were at risk of losing.

Councillor Bale accepted that Members had received an increase of 16% but that this only equated to around £800 per annum and that Members had opted not to take their 1% linked increase in 2016/17.

Councillor Fredrickson in responding to the comments from the staff and public thanked them all for their contribution to the meeting. He noted that at times those present wished not to be compared to others and at other times they did. He felt that they could not have it both ways. The Council operated in a labour market based on supply and demand and that a balance had to be sought between the Council's financial position and its relationship with its workforce.

He commented that the issue of Members' allowances was politically toxic, but reminded those present that the 16% increase was based on a recommendation from the Independent Remuneration Panel. It should also be viewed in the context of other payments to Members including pension contributions that had been removed. Members had also repeatedly agreed not to accept their index linked increase over the past few years.

Councillor Fredrickson also noted that the Boundary Review was likely to decrease the number of Councillors which would reduce the cost of elected members in the long run.

He noted that reference had also been made to the five authorities in the comparator group that still paid a redundancy multiplier of two. He explained that he had had conversations with the relevant elected Members in those authorities and they had assured him that they would be having similar conversations with their employees. He was convinced that within a year they would no longer be paying for redundancies at the current levels either.

Councillor Fredrickson also commented in relation to concerns about a further reduction to the multiplier that although this had formed part of the previous proposal it had been expressly removed from this report.

Councillor Fredrickson explained that as the Portfolio Holder for HR he never wanted to be in this position. If this saving was not agreed it would have to be found from elsewhere and could potentially increase the number of people that would have to be made redundant. If Members were not willing to make these small savings more difficult decisions would have to be made down the line.

Central Government had forced these changes on the Council and whether people liked it or not the Conservative Government had been elected with a mandate to 'balance the books'. He acknowledged that WBC was however not happy with the speed at which the changes had been enacted.

David Pearson asked the Portfolio Holder to address the question that had been raised about investigating the cost to the Council of employees ceasing to work unpaid hours.

PERSONNEL COMMITTEE - 30 JUNE 2016 - MINUTES

He suggested that it would be useful for Members to have this information before taking a decision on the multiplier. The unions did not want to run a campaign encouraging employees to desist from working unpaid overtime. Generally employees that worked at the Council were committed to public service.

Mark Cole stated that the Portfolio Holder had stated that this proposal would only equate to a small saving. By way of illustration he would like to show Members how the decision would impact on him and thereby show how big the impact would be on individuals. Under the old scheme (x3 multiplier) he would have received circa £100k if he was made redundant, at a level of x2 he would receive £67k and under the new proposal (x1.5) he would receive £50k. The impact on an individual was therefore not small.

Stephen Chandler reminded Members that over the last few years the workforce had been subjected to pay freezes, constant threats of redundancy and increased workloads arising from a shrinking workforce. Comments were made that there were other cost cutting measures that could be put in place that were not detrimental to staff. Councillor Bale urged staff to come forward with savings options.

Standing Orders were reinstated.

Councillor Bryant stated that the Committee found itself in a difficult position which was not of West Berkshire's making. The decision was being made against a difficult financial climate. He recognised that these cuts however small were very painful for staff and that he wished that the Council was not in a position where it had to make them. Members however had to make difficult decisions balancing a number of priorities. If Members voted against the Officer's recommendation the savings would simply have to be found from elsewhere.

Councillor Mollie Lock commented that she had listened to the comments made about staff having to work extra hours. She believed that in order to make an informed decision this activity should be costed. She therefore proposed that the decision be deferred until this work had been undertaken. This proposal was not seconded.

Councillor Bale commented that the Council could not run a deficit budget and although this was not a decision she would like to make the Council needed to have a policy in place and she therefore proposed that the Officer's recommendation be accepted, subject to a review taking place once the Government's legislation affecting payments made to public sector employees upon the termination of their employment was enacted. This review could include consideration of the additional hours worked by staff that had been referred to. She stated however that this proposal should not be seen as an indication of how much Members valued staff.

Robert O'Reilly stated that any legislative changes would have to be adopted by the Council although any amendments to the policy would be presented to the Personnel Committee.

Councillor Dennis Benneyworth stated that in taking this decision there were no winners. He valued the work undertaken by staff enormously but that the sad factor was that the Council was now worth less. It was therefore with a heavy heart, due to having to balance a number of financial constraints, he would reluctantly have to vote in favour of the Officer's recommendation.

Councillor Bryant commented that it was unfathomable that Officers were not paid for the overtime they accrued. If they worked the time they should be paid for it.

RESOLVED that the Officer recommendation to reduce the multiplier used by West Berkshire Council to calculate redundancy compensation payments from 2 times to 1.5 times the statutory number of weeks' pay with effect from 1 September 2016

PERSONNEL COMMITTEE - 30 JUNE 2016 - MINUTES

be accepted, subject to a review taking place once the Government's legislation affecting payments made to public sector employees upon the termination of their employment was enacted.

(The meeting commenced at 10.00am and closed at 11.20am)

CHAIRMAN

Date of Signature

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Appointment of the Council's Monitoring Officer

Committee considering report:	Personnel Committee on 21 October 2016
Portfolio Member:	Councillor James Fredrickson
Date Portfolio Member agreed report:	22 September 2016
Report Author:	Robert O'Reilly
Forward Plan Ref:	PC3178

1. Purpose of the Report

- 1.1 To invite the Personnel Committee to appoint an interim Monitoring Officer for West Berkshire Council with effect from 1 November 2016.

2. Recommendation

- 2.1 That the Personnel Committee ratify the recommendation from Councillor James Fredrickson that Sarah Clarke is appointed as interim Monitoring Officer for West Berkshire Council with effect from 1 November 2016.

3. Implications

- 3.1 **Financial:** None
- 3.2 **Policy:** None
- 3.3 **Personnel:** None
- 3.4 **Legal:** This recommendation is made in accordance with the Council's constitution.
- 3.5 **Risk Management:** None
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 None

5. Executive Summary

- 5.1 The Head of Legal Services (David Holling) is retiring on 31st October 2016. Councillor James Fredrickson (Portfolio Holder for HR), Nick Carter (Chief Executive) and Robert O'Reilly (Head of HR) decided to invite existing senior members of staff in Legal Services to apply for the interim position of Head of Legal Services. The interim nature of the position is to allow the appointed person to explore the possibility of establishing a shared legal service with one or more other local authorities. It is envisaged that the interim position will last for approximately 12 months before a decision on a shared service is made.
- 5.2 In September 2016 a recruitment process took place and Sarah Clarke was offered the interim position of Head of Legal Services with effect from 1st November 2016.
- 5.3 In West Berkshire Council the position of Head of Legal Services also holds the statutory role of "Monitoring Officer". This is the same as in most local authorities. The role of Monitoring Officer is one of the three "Proper Officer" roles which all local authorities must have by law. The other "Proper Officer" roles are "Section 151 Officer" (Andy Walker) and "Head of Paid Service" (Nick Carter).
- 5.4 Section 3.1.3 of the Council's Constitution states that the power to appoint *Officers for particular purposes (appointment of 'Proper Officers')* rests with the Personnel Committee and this function will not be further delegated. Therefore, for Sarah Clarke to take on the role of Monitoring Officer as part of her duties as interim Head of Legal Services, the Personnel Committee must ratify her appointment to that role with effect from 1st November 2016.

6. Conclusion

- 6.1 The Personnel Committee is invited to formally ratify Sarah Clarke's appointment to the role of Monitoring Officer as part of her duties as interim Head of Legal Services with effect from 1st November 2016

7. Appendices

- 7.1 There are no appendices to this report.

Corporate Board's recommendation:

Corporate Board supported the conclusion of this report on 13th September 2016.

Political Restricted Posts Policy and Guidance

Committee considering report:	Personnel Committee
Date of Committee:	21 October 2016
Portfolio Member:	Councillor James Fredrickson
Report Author:	Katie Penlington
Forward Plan Ref:	PC3199

1. Purpose of the Report

- 1.1 To inform Personnel Committee of the revised Politically Restricted Posts Policy and Guidance before it is taken to the Chief Executive for approval.

2. Recommendations

- 2.1 To note the revised policy.

3. Implications

- 3.1 **Financial:** None
- 3.2 **Policy:** Revised to include a list of politically restricted posts that are either 'specified' or 'sensitive', and an appeal process for sensitive posts.
- 3.3 **Personnel:** None
- 3.4 **Legal:** Revised in line with s 30 of the Local Democracy, Economic Development and Construction Act 2009; which amended the Local Government and Housing Act 1989.
- 3.5 **Risk Management:** None
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 None. Local Authorities are required to maintain a list of Politically Restricted Posts. This document fulfils this requirement and sets out details of what political restriction means for employees in politically restricted posts.

5. Executive Summary

- 5.1 Under the Local Government and Housing Act 1989, as amended by the Local Democracy , Economic Development and Construction Act 2009, local authority employees in politically restricted roles are prevented from having any active political role either in or outside the workplace and are prohibited from acting in a way that could bring their political impartiality into question.
- 5.2 Before January 2010 roles above scp 44 were politically restricted. From 12th January 2010 salary level no longer determined whether a role is politically restricted. Political restriction now depends upon the duties the post holder is required to perform. Posts fall into two categories; either 'specified' or 'sensitive'. Only those in sensitive posts may appeal against the decision to class their role as politically sensitive.
- 5.3 The revised procedure reflects these changes, and lists those in specified and sensitive posts. It describes what political restriction means for those in politically restricted roles, and the appeal process for those in 'sensitive roles'.
- 5.4 The list of politically sensitive posts has been drawn up in consultation with Heads of Service.

6. Conclusion

- 6.1 The Politically Restricted Posts Policy and Guidance are brought to Personnel Committee for information. It will be taken to the Chief Executive for approval.

7. Appendices

- 7.1 Appendix A – The Politically Restricted Posts Policy and Guidance

Report title – Supporting Information

1. Introduction/Background

- 1.1 The Policy has been revised in line with s 30 of the Local Democracy, Economic Development and Construction Act 2009, which amended the Local Government and Housing Act 1989. This removed the salary criterion for defining a post as restricted. The remaining criteria for classing a post as politically restricted are; 'specified' (as defined in the Act); or 'sensitive' (to be determined by the authority in accordance with the definition in the Act).
- 1.2 The revised guidance updates the Council's policy to ensure that the list of specified and sensitive posts is up to date and that staff have clear guidance on the restrictions this places on them. The list of sensitive posts has been compiled with the assistance of Heads of Service.

2. Supporting Information

- 2.1 The revised Politically Restricted Posts Policy and Guidance.

3. Options for Consideration

- 3.1 Policy provided to Personnel Committee for information only.

4. Proposals

- 4.1 The revised Policy is brought to Personnel Committee for information; it will be taken to the Chief Executive for approval.

5. Conclusion

- 5.1 Personnel Committee should note the revised Policy and guidance.

6. Consultation and Engagement

- 6.1 Heads of Service have been involved in drawing up the list of politically restricted posts.
- 6.2 Legal Services and Democratic and Electoral Services have been consulted in revising the Policy and guidance.
- 6.3 The draft Policy was taken to Corporate Board on 11th October 2016.

Background Papers:

Local Government and Housing Act 1989, as amended.

NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Operations Board.

Subject to Call-In:

Yes: No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

Wards affected:

*(add text)

Please put a cross in the appropriate box(es) by double-clicking on the box and selecting 'Checked':

Strategic Aims and Priorities Supported:

The proposals will help achieve the following Council Strategy aim(s):

- BEC – Better educated communities**
- SLE – A stronger local economy**
- P&S – Protect and support those who need it**
- HQL – Maintain a high quality of life within our communities**
- MEC – Become an even more effective Council**

The proposals contained in this report will help to achieve the following Council Strategy priority(ies):

- BEC1 – Improve educational attainment**
- BEC2 – Close the educational attainment gap**
- SLE1 – Enable the completion of more affordable housing**
- SLE2 – Deliver or enable key infrastructure improvements in relation to roads, rail, flood prevention, regeneration and the digital economy**
- P&S1 – Good at safeguarding children and vulnerable adults**
- HQL1 – Support communities to do more to help themselves**
- MEC1 – Become an even more effective Council**

The proposals contained in this report will help to achieve the above Council Strategy aims and priorities by *(add text)

Officer details:

Name: Katie Penlington
Job Title: Human Resources Officer
Tel No: 01635 519325/etxn. 2325
E-mail Address: Katie.penlington@westberks.gov.uk

Appendix B

Equality Impact Assessment - Stage One

NOTE: Strategic Support is not able to accept your report without the following section being completed and an Equality Impact Assessment (EIA) being attached where required. For advice please visit <http://intranet/EqIA> or contact the Principal Policy Officer (Equality & Diversity) on Ext. 2441 or Team Leader/Solicitor - Corporate Team on Ext. 2626.

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity.

Please complete the following questions to determine whether a Stage Two, Equality Impact Assessment is required.

Name of policy, strategy or function:	Politically Restricted Posts Policy and Guidance
Version and release date of item (if applicable):	Version 2
Owner of item being assessed:	Katie Penlington
Name of assessor:	Katie Penlington
Date of assessment:	7 th July 2016

Is this a:		Is this:	
Policy	Yes	New or proposed	No
Strategy	No	Already exists and is being reviewed	Yes
Function	No	Is changing	Yes
Service	No		

1. What are the main aims, objectives and intended outcomes of the policy, strategy function or service and who is likely to benefit from it?	
Aims:	To provide clear information to employees and managers about which posts are politically restricted , and to explain the implications of this for holders of these posts.
Objectives:	<p>This policy and guidance sets out the political restrictions that apply to certain posts within local authorities and what the restrictions mean for employees holding these roles in West Berkshire Council.</p> <p>It also sets out a list of those posts which West Berkshire Council has determined are subject to political restriction.</p>

Outcomes:	Employees and managers should be clear about which posts are politically restricted, and about what those holding such posts can and cannot do.
Benefits:	Local Authorities are required by law to maintain a list of politically restricted posts.

2. Note which groups may be affected by the policy, strategy, function or service. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.
 (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)

Group Affected	What might be the effect?	Information to support this
All groups	The changes are based upon a change in legislation and will apply to all groups equally.	The legislation defines 'specified' posts and describes what makes a post 'sensitive'. Holders of posts deemed as sensitive by West Berkshire Council are able to appeal to the Governance and Ethics Committee.

Further Comments relating to the item:

3. Result

Are there any aspects of the policy, strategy, function or service, including how it is delivered or accessed, that could contribute to inequality?	No
--	-----------

Please provide an explanation for your answer:

Will the policy, strategy, function or service have an adverse impact upon the lives of people, including employees and service users?	No
---	-----------

Please provide an explanation for your answer:

If your answers to question 2 have identified potential adverse impacts and you have answered ‘yes’ to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage 2 Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the Equality Impact Assessment guidance and Stage Two template.

4. Identify next steps as appropriate:	
Stage Two required	No
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	
Stage Two not required:	

Name:

Date:

Please now forward this completed form to Rachel Craggs, the Principal Policy Officer (Equality and Diversity) for publication on the WBC website.

Appendix C

*(add text)

Politically Restricted Posts Policy and Guidance

Reference: HRPRPG
Version No: 2
Issue Date: *

Document Control

Document Ref:	HRPRPG	Date Created:	October 2016
Version:	2.0	Date Modified:	
Revision due			
Author:	Katie Penlington	Sign & Date:	
Head of Service:	Robert O'Reilly	Sign & Date:	
Equality Impact Assessment: (EIA)	Date undertaken:		
	Issues (if any):		

Change History

Version	Date	Description	Change ID
1.0	2008	Original guidance to comply with legislation	
2.0	October 2016	Fully updated guidance in line with 2010 changes to remove salary level restriction on political activity	

Related Documents

Reference	Title	Tier



Contents

1.	Purpose	3
2.	Applicability.....	3
3.	Which posts are politically restricted?	3
4.	Political restrictions.....	4
5.	Appeals	5
6.	Consequences of undertaking prohibited activity	6
7.	Employees wishing to stand as candidate for election	6
8.	Restrictions on holding office or employment under the Local Government Act 1972	6
	List of politically restricted posts	7
	Specified posts:	7
	Sensitive Posts:.....	10

1. Purpose

- 1.1. This policy and guidance sets out the political restrictions that apply to certain posts within local authorities and what the restrictions mean for employees holding these roles in West Berkshire Council.
- 1.2. It also sets out a list of those posts which West Berkshire Council has determined are subject to political restriction.

2. Applicability

- 2.1. Under the Local Government and Housing Act 1989, as amended by the Local Democracy, Economic Development and Construction Act 2009, local authority employees in politically restricted roles are prevented from having any active political role either in or outside the workplace and are prohibited from acting in a way that could bring their political impartiality into question.
- 2.2. The main provisions regarding politically restricted posts (PoRPs) are set out in the Local Government and Housing Act 1989 (the Act). Further details are contained in the Local Government (Political Restrictions) Regulations 1990 as amended (the Regulations). The Local Democracy, Economic Development and Construction Act 2009 removed the previous restriction on certain officers based on salary level, and required local authorities to review these posts to determine whether they should be politically restricted by reason of the duties that they perform.
- 2.3. The legislation relating to PoRPs applies to all local government employees, including part time employees. Further details of which posts are politically restricted in West Berkshire Council can be found in appendix one below. There are also restrictions on elected members holding paid employment within the authority (see section 8 below)
- 2.4. When advertising a politically restricted post, the criteria must be used to determine whether a post is politically restricted and on what grounds it is restricted. If the post is politically restricted this must be included in the job description and in the employee's contract of employment. Recruiting managers must ensure that they specify to HR at the outset of recruitment where a role is politically restricted.

3. Which posts are politically restricted?

- 3.1. Political restriction aims to ensure political neutrality and to prevent advice and decisions from being improperly influenced by separate political loyalties.
- 3.2. With effect from 12th January 2010 politically restricted posts fall into two categories; 'specified posts' and 'sensitive posts'.¹
- 3.3. Specified posts are set out in the Act:
 - The Head of Paid Service
 - Statutory Chief Officers (including the Director of Children's Services, The Director of Adult Social Services, The Chief Education Officer, the Director of Public Health and the Chief Finance Officer)

¹ From 12th January 2010 salary level no longer determines whether a role is politically restricted. Political restriction depends upon the duties the post holder is required to perform.

- Non-statutory Chief Officers (i.e. Officers reporting to the Head of Paid Service, excluding secretarial/clerical support staff)
- Deputy Chief Officers (i.e. Officers reporting to a Chief Officer excluding secretarial/clerical support staff)
- The Monitoring Officer
- Officers exercising delegated powers
- Assistants to political groups

All these post holders are automatically politically restricted **without** right of appeal to the local authority's Governance and Ethics committee.

3.4.A 'sensitive post' is one which meets one or both of the following duty related criteria:

3.4.1. Giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority is represented; or where the authority is operating executive arrangements, to the executive of the authority; to any committee of that executive; or to any member of that executive who is also a member of the authority.

3.4.2. Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

These post holders can appeal to the local authority Governance and Ethics Committee on the grounds that the authority has wrongly applied the criteria

3.5. Teachers, head teachers and lecturers are all exempt from political restrictions under s2 (10) the Act and will not be regarded as holding a politically restricted post whatever their role or remuneration level.

3.6. The Council is obliged to draw up a list of politically restricted posts. This list can be found in appendix one of this document.

3.7. Managers must inform HR where an existing post is changed in a way that means it will become politically restricted.

4. Political restrictions

4.1. Employees in politically restricted posts are prevented from having any politically active role either in or outside the workplace.

4.2. Holders of politically restricted posts are automatically disqualified from standing for or holding elected office as:

- Local Councillors
- MPs
- MEPs
- Members of the Welsh Assembly
- Members of the Scottish Parliament

4.3. They are also prevented from:

- 4.3.1. Being an officer of a political party or branch of a political party, or a member of a committee or sub-committee of a political party or branch where it would be likely to require him/her to:
- Participate in the general management of the party or the branch or
 - Act on behalf of the party or branch in dealings with people other than members of the party or members of another political party associated with the party.
- 4.3.2. Acting as an election agent or sub-agent for a candidate standing for election as a member of a body mentioned in section 4.2 above.
- 4.3.3. Canvassing on behalf of a political party or person who is or proposes to be a candidate
- 4.3.4. Speaking to the public at large (i.e. the general public) or to a section of the public with the apparent intention of affecting public support for the party
- 4.3.5. Publishing to the public at large or a section of the public any written or artistic work of which he/she is the author, one of the authors or editor that could give the impression that he/she is advocating support for a political party or cause, authorise or permit anyone else to publish such a work or collection.
- 4.4. An employee in a politically restricted post **is** allowed to display a poster or other document on property that he/she lives in, or on a vehicle or article used by him/her.
- 4.5. Nothing in section 4 of this document precludes the employee from engaging in activities to such an extent as is necessary for the proper performance of his/her employment with West Berkshire Council.
- 4.6. Employees in politically restricted roles should ensure that their use of social media does not contravene this and be aware that even if they have set privacy settings on social media to 'friends' only, comments and postings may become visible to others, if friends comment on or share them.
- 4.7. In effect, these restrictions limit holders of politically restricted posts to bare membership of political parties, with no active participation within the party.
- 4.8. Where an employee, employed within a politically restricted post, is in any doubt about whether he/she is permitted to undertake any activity he/she should seek advice from his or her line manager before undertaking the activity.
- 4.9. The line manager may seek advice from HR and/or Legal Services if it is not clear whether either the post is restricted, or the activity is prescribed.

5. Appeals

- 5.1. Employees in 'sensitive' posts can appeal to be exempted from the list of politically restricted posts if they feel that the criteria have been wrongly applied to their post

5.2. An employee in a 'sensitive' post who wishes to appeal should submit his/her appeal in writing to the Head of Strategic Support; stating the grounds for the appeal

5.3. The appeal will then be considered by the Governance and Ethics Committee who will make a final determination on the matter.

5.4. Employees in 'specified' posts have no right of appeal.

6. Consequences of undertaking prohibited activity

6.1. The Council's Disciplinary Procedure will be invoked where an employee in a politically restricted post undertakes prohibited activity.

7. Employees wishing to stand as candidate for election

7.1. An employee who wishes to stand as a candidate for election to one of the bodies listed in 4.2 above must have given his/her manager written notice of resignation and must have served his/her notice period before the date that he/she must submit his/her nomination as a candidate in an election.

7.2. There is no restriction on an employee who resigned a post and is unsuccessful in seeking political office from applying for the post they used to hold once it is advertised outside the Council. Jobs will not be held open pending the outcome of an election and reappointment would be subject to normal selection procedures. Continuous service may not apply.

8. Restrictions on holding office or employment under the Local Government Act 1972

8.1. A local authority cannot appoint as an employee in any capacity, any councillor who is currently a member of that authority or who has been a member in the previous 12 months.

8.2. However, in an authority operating executive arrangements under the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and other Provisions) (England) Order 200, a Councillor is not precluded from being appointed or elected to a position on the executive which may be described as paid office.

8.3. No employee of the Council, regardless of whether his/her role is politically restricted or not, can be elected or hold office as a member of West Berkshire Council. An individual is also disqualified from standing or holding office with the Council if he/she holds any paid office or employment with a local or joint authority on which West Berkshire Council is represented.

West Berkshire Council employees in politically restricted posts cannot stand for election as a councillor in **any** Council.

Appendix 1

List of politically restricted posts

Specified posts:

Specified posts are set out in the Act:

- The Head of Paid Service
- Statutory Chief Officers (including the Director of Children’s Services, The Director of Adult Social Services, The Chief Education Officer, the Director of Public Health and the Chief Finance Officer)
- Non-statutory Chief Officers (i.e. Officers reporting to the Head of Paid Service, excluding secretarial/clerical support staff)
- Deputy Chief Officers (i.e. Officers reporting to a Chief Officer excluding secretarial/clerical support staff)
- The Monitoring Officer
- Officers exercising delegated powers
- Assistants to political groups

All these post holders are automatically politically restricted without right of appeal to the local authority’s Governance and Ethics committee.

Specified post set out in the Act	WBC job title
Head of Paid Service	Chief Executive
Statutory Chief Officers	
Director of Children’s Services	Corporate Director Communities
Director of Adult Services	
Chief Education Officer	Head of Education Services
Director of Public Health	N/A
Chief Finance Officer	Head of Finance
Non statutory Chief Officers – Officers reporting to the Head of Paid Service (excluding secretarial/clerical staff)	
	Corporate Director Environment
	Head of ICT and Corporate Support
	Head of Finance
	Head of Strategic Support

	Head of Human Resources
	Head of Public Health and Wellbeing
Monitoring Officer	Head of Legal Services
	Head of Customer Services
	Head of Corporate Programme Management
Deputy Chief Officers – Officers reporting to a Chief Officer (excluding secretarial/clerical staff)	
Reporting to Director of Environment	Head of Highways and Transport
	Head of Planning and Countryside
	Head of Culture and Environmental Protection
Reporting to the Director of Communities	Head of Prevention and Developing Community Resilience
	Head of Education Services
	Head of Children and Family Services
	Head of Care Commissioning, Housing and Safeguarding
	Head of Adult Social Care
Reporting to the Head of ICT and Corporate Support	IT Project Manager
	Education IT and ICT Customer Services Manager
	ICT Operations Manager
	Telecommunications Manager
	Applications Development Manager
	Superfast Berkshire Project Manager
Reporting to the Head of Finance	Chief Accountant (Strategy)
	Waste PFI Accountant
	Chief Internal Auditor
	Chief Accountant Operations
Reporting to the Head of Strategic Support	Civil Contingencies Manager

	Communications Manager
	Safer Communities Partnership Team Manager
	Performance, Research and Consultation Manager
	Democratic and Electoral Services Manager
	Scrutiny and Partnership Manager
	Policy Officer
	LGA Peer Review
Reporting to the Head of Human Resources	HR Manager
Reporting to the Head of Legal Services	Legal Services Manager
Reporting to the Head of Customer Services	Revenues and Benefits Manager
	Superintendent Registrar
	Customer Services Manager
	Exchequer Services Manager
Reporting to the Head of Public Health and Wellbeing	Programme Manager
	Public Health Project Manager
	Public Health Trainee
Reporting to the Head of Education Services	Service Manager
	Principal School Improvement Adviser
	School Improvement Adviser (ICT and Assessment)
Reporting to the Head of Programme Management	Corporate Programme Management Manager

Sensitive Posts:

A 'sensitive post' is one which meets one or both of the following duty related criteria:

- Giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority is represented; or where the authority is operating executive arrangements, to the executive of the authority; to any committee of that executive; or to any member of that executive who is also a member of the authority.
- Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

These post holders can appeal to the local authority Governance and Ethics Committee on the grounds that the authority has wrongly applied the criteria.

Note that many posts which may be deemed 'sensitive' are already restricted by virtue of being 'specified' posts. These are not repeated below.

Posts giving advice as specified above	
Service	WBC job title
Legal Services	Principal Lawyer
Legal Services	Solicitor
Legal Services	Chartered Legal Executive
Legal Services	Legal Services Manager (G&E) & (C&C)
Adult Social Care	Service Manager - Care Quality and Safeguarding
Adult Social Care	Service Manager - Contracts Commissioning and Systems
Adult Social Care	Service Manager - Client Financial Services
Adult Social Care	Service Manager - Housing Strategy and Operations
Planning and Countryside	Development Control Manager
Planning and Countryside	Planning and Transport Manager
Planning and Countryside	Countryside Manager
Planning and Countryside	Development Control Team Leader
Planning and Countryside	Principal Planning Officers
Planning and Countryside	Planning Policy Team Leader
Planning and Countryside	Principal Policy Officer
Planning and Countryside	Minerals and Waste Team Leader
Planning and Countryside	Grounds Maintenance Manager
Planning and Countryside	Transport Policy Team Leader
Planning and Countryside	Principal Transport Policy Officer
Care Commissioning, Housing and Safeguarding	Service Manager – Care Quality and Safeguarding
	Service Manager – Contracts, Commissioning and Systems
	Service Manager – Client Financial Services
	Service Manager – Housing Strategy and Operations
ICT and Corporate Support	Information Security Officer
Highways and Transport	Traffic Services Manager
	Transport Services Manager
	Highway Manager
	Projects Manager

Education	Service Manager – Early Years and SIA
	School Improvement Adviser – post 16
	Local Authority Designated Officer (LADO)
Culture and Environmental Protection	Library Manager
	Environmental Health and Licensing Manager
	Culture Manager
	Trading Standards Manager
	Sports and Leisure Manager
	Waste Manager
Finance	Schools Finance Manager
	Finance Manager Capital, VAT and Treasury
Children and Family Services	Local Authority Designated Officer (LADO)

Posts speaking on behalf of the authority on a regular basis to journalists or broadcasters	
Service	WBC job title
Strategic Support	Press and PR Officer
	Press and PR Assistant

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