

DRAFT

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

PERSONNEL COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY, 7 MARCH 2018

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

Also Present: Robert O'Reilly (Head of Human Resources), Rebecca Bird (HR Officer) and Moira Fraser (Democratic and Electoral Services Manager)

Apologies for inability to attend the meeting: Councillor Dennis Benneyworth

Councillor Absent: Councillor Carol Jackson-Doerge

PART I

8. Minutes

The Minutes of the meeting held on 12 February 2018 were approved as a true and correct record and signed by the Chairman.

Robert O' Reilly confirmed that he had sent the information on expenditure on salaries in the current financial year and how this compared with the 2018/19 forecast to Councillor Richard Crumly immediately prior to this meeting (see Minute 5 Statutory pay Policy 2018 on page 4 of the paperwork). He confirmed that the 2017/18 expenditure was £37.4m. The comparison with the 2018/19 could not be undertaken until the accounts were closed down.

9. Declarations of Interest

There were no declarations of interest received.

10. Revised Sickness Absence Procedure PC3396)

The Committee considered a report (Agenda Item 4) which sought to amend the Sickness Absence Reporting and Management Policy, Procedure and Guidance to improve the management of long term sickness absence and to reduce the risk of claims at Employment Tribunal. Rebecca Bird in introducing the item noted that following a recent employment tribunal the Council had been advised by counsel that the existing policy could expose the council to the risk of tribunal claims when dismissing staff because of absence. One of the issues was that staff with long term absence might be considered to be disabled under the Equality Act 2010. Members requested that Robert O' Reilly circulate the cost of external legal representation at that tribunal to the Committee outside of the meeting. **(RoR to Action).**

Ms Bird explained that there were four key changes to the policy.

- (1) Inclusion of settlement agreements as an option for resolution of formal cases. The aim was to increase the range of options open to managers and Heads of Service and to provide a compassionate and pragmatic alternative to dismissal on grounds of ill health capability, which would also eliminate risk of disability discrimination claims. In cases of long-term absence, this might be where the

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timescale for a successful return to work was unknown and the employee had already been absent for more than six months, or had exhausted their entitlement to full sick pay. The terms of any settlement agreement would not exceed any remaining entitlement to sick pay and notice. The Head of Service would agree the terms of any settlement agreement and would agree to fund the legal fees of the employee (maximum of £350 plus VAT).

While settlement agreements were referred to throughout the document the most significant changes were set out in paragraph 16 (Alternatives to Dismissal)

Councillor Richard Crumly queried if there was any scope to reduce employees' entitlement to sick pay. He noted that currently employees that had more than five years' service were entitled to receive six months' full pay and six months half pay. Robert O' Reilly responded that this was one of the issues looked at by the Task Group that had been set up to look at staff terms and conditions under the Corporate Programme. They had agreed not to progress any changes as it would put the Council out on a limb in relation to other authorities, very few people made use of this entitlement and if they did it was usually because they were very seriously or terminally ill and changes would require all staff to be dismissed and re-employed in order to change their terms and conditions. The task group had therefore concluded that the risks associated with this proposal outweighed any benefits that would be derived.

Robert O'Reilly reminded the Committee that sickness absence was regularly monitored and that average absence at the Council was below the average of the public sector and the national average for local authorities. Absence rates had remained relatively stable over the last three years. Councillor Mollie Lock commented that if staff were unhappy sickness rates were likely to increase.

Rebecca Bird commented that the Council already made use of settlement agreements, more often in schools, but they had not traditionally used for sickness cases.

(Councillor Mollie Lock left the meeting at 11.50am)

- (2) The term "Decision Hearing" would be used for the final stage of the procedure which might lead to dismissal. These were previously called "Dismissal Hearings" which implied pre-judgement of a case.

The Committee felt that this was a sensible adjustment.

- (3) More information and guidance about disability and responsibilities to make reasonable adjustments. Feedback from managers was that there was insufficient information available in the procedure about these topics and their responsibilities.

Ms Bird explained that section 5 (Disability) had been included to provide additional guidance for managers following feedback HR had received on this issue. Section 10 (Disability, making reasonable adjustment and redeployment) had been modified to provide greater clarity.

- (4) More detail about Ill Health Retirement and entitlements. HR had received legal advice which stated that an Ill Health Retirement was a dismissal in law because it was a decision made by the Council, therefore staff were entitled to paid

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notice. The proposed amendments clarified that entitlement and describe a process for decision-making which had not been clear previously. Section 37 (Ill health retirement) had been amended to reflect these changes.

This section also provided clarity on employees accessing their pension early. Councillor Pamela Bale queried if there might be a cost to the Council should employees chose to this. Officers confirmed that there was a cost to the Council.

Ms Bird also drew Members’ attention to the consent form on page 42 of the agenda which HR had developed. This should assist with clarifying the process with the individual before the start of any medical assessment.

Councillor Crumly queried whether or not the Council still had a policy in relation to continuous service and if so whether that put the Council at risk to more claims of unfair dismissal. Robert O’Reilly explained that the continuous service policy meant that contractual rights (e.g. leave and sickness absence entitlements) were transferred with the employee but the statutory right to claim unfair dismissal were not transferred. However, the right to count continuous service towards a redundancy payment was covered by separate legislation (The Redundancy Modification Order).

Councillor Pamela Bale thanked Officers for revising the policy. She requested that in future it would be useful to show the adjustments on the policy so that changes could be identified more easily. Officers confirmed that any formatting issues would be addressed before the policy was published.

RESOLVED that: the revised Sickness absence – Reporting and Management Policy, Procedure and Guidance be approved.

(The meeting commenced at 11.30 am and closed at 12.07 pm)

CHAIRMAN

Date of Signature